





This PDF you are browsing is in a series of several scanned documents containing the collation of all research material of Prof. Kul Bhushan Mohtra ji. Mohtra ji is currently the State Incharge Library and Documentation Department, J&K BJP Headquarters, Nanaji Deshmukh Library. This material was gathered while he was working on his multiple books on J&K History. All this rare material is now offered to the Community freely.

CV:

Kul Bhushan Mohtra was born on 9th Sep, 1957 in a village Amuwala in Kathua district.

Matric from BOSE, Jammu and Adeeb from AMU. Has been awarded Honorary Professor by School of Liberal Art & Languages, Shobhit University, Gangoh, Distt. Saharanpur, U.P.

Director General, Raja Ram Mohan Roy Library Foundation nominated him as his nominee in the Committee for purchasing of Books for UT Jammu & Kashmir. Incharge of Nanaji Deshmukh Library & Documentation Department at BJP state HQ in J&K.

Actively engaged in political, social, charitable and religious activities. Always striving to serve the poor and downtrodden of the society.

Main works-

A saga of Sacrifices: Praja Parishad Movement in J&K

100 Documents: A reference book J&K, Mission Accomplished

A Compendium of Icons of Jammu & Kashmir & our Inspiration (English)

Jammu Kashmir ki Sangarsh Gatha (Hindi)

Scanning and upload by eGangotri Foundation.



File No. 30SHEIKH ABDULLAHFILE NO: 25Sheikh Abdullah's Historic Address to the Consenbly of Kashmir  
(28th Sep 1982)Permanent Resident of Jammu and Kashmir State and their  
Fundamental Rights (Dr. Vidya Bhushan)

The Protection of the Rights of Women in J&amp;K States\*

NO. 275

RECORD FILE





16  
12

Kashmir Times 21.2.44 Sept. 19.52

**SHEIKH ABDULLAH'S HISTORIC ADDRESS TO THE CONVENTRY  
OF KASHMIR**

!!Dr. Vidya Bhushan  
P.G. Dept., of Pol. Sc.  
University of Jammu!!

The Sheikh's inaugural address to the Jammu and Kashmir Constituent Assembly seems to have a three-fold significance. In the first place, the address is that of a leader who has been the chief architect of the freedom struggle in the State as a part of the larger National Movement which ended the British Rule in India sub-continent. He has also played a leading role in the political drama of the State for about the past half-century, occupying the centre of the stage of the Kashmir political scene most of this time, and indirectly influencing it considerably when circumstances did not occasionally allow his direct presence on the stage.

Secondly, it spells out and highlights the principal Institutions and other empirical formulations which were sought to be enshrined in the State's Constitution and comprise the new Constitutional set-up in Jammu and Kashmir.

Lastly, it is possible to discern in the address, a reflection of some sort of a political philosophy, an ideology or rather a mixture of ideologies and to abstract the same from the matrix of the empirical issues and a cluster of Institutions analysed and discussed there.

In the very nature of the things, the issues and their empirical formulations in the address, are intermingled with the abstract thought behind them. It therefore, seems proper to briefly touch the main issues and follow them up with the political philosophy which prevailed in the Constituent Assembly and was finally projected in its handiwork, the Constitution.

Among the main issues, were the future of the ruling dynasty, the accession of the State to the Indian Union, the question of compensation to the expropriated land-owners, the degree of cultural autonomy to the various territorial units.



of the State, fundamental rights, independence of Judiciary and the rule of Law together with the values contained in the concept of socio-economic justice.

As to the ruling dynasty, the Institution of monarchy was pronounced to be incompatible with the spirit and need of modern times and it was desired that the Constitutional head of the State should be chosen by the State Assembly to perform certain functions which may be entrusted to him under the Constitution.

In respect of the State's accession, the address examines the pros and cons of three options open to the Assembly, namely, accession to India, accession to Pakistan and an independent status, making the State as a kind of Switzerland of the East. In favour of the accession to India, the address referred among other things, to community of ideals between the State and rest of India, the support that State's freedom movement received from Indian National Congress, democratic values of Indian Constitution such as rule of law, the Secular approach to social and public life, the commitment to land reforms and other aspects of socio-economic justice.

Explaining the case of accession to Pakistan, the address notes the feudal structure and the communal outlook which had coloured the political life in Pakistan. It marks the inadequacy and outdated nature of religion forming the basis of a modern State, and pointed out irrelevance of religion to present day alliances.

Regarding an independent status for Kashmir, the lack of goodwill for it on the part of its neighbours and some other factors made its viability out of question.

The Assembly was called upon to take a decision on the issue of compensation to the land owners who had lost



part of their land on account of Land-reforms which had been carried out by the new regime.

The manifesto of the National Conference drawn way back in 1944 and entitled 'New Kashmir' contains, among, other things the principle "land to the tillers." The address also stressed the desirability of adopting rule of law, independence of judiciary, fundamental rights such as right to equality, freedom of expression and the values pertaining to the socio-economic justice.

A perusal of the address indicates that the Sheikh (and his party) was considerably influenced by the liberal, democratic traditions of the west, which, incidentally, had also influenced the making of the Indian Constitution. The party also subscribed to certain socialistic values and concepts such as that of socio-economic justice. The "land to the tiller" without compensation to the land-owners for the land of which they were expropriated is, in fact, reminiscent of a Marxist norm. It seems that the two main streams of the western liberal political traditions and the socialism slightly coloured by the Marxist traditions, both came for attention on the part of the party, its leaders and the Assembly. The result of was a kind of a fusion of the two traditions, two different ways of life, a kind of amalgam of the values belonging to each traditions.

And, so, as the two philosophies or ideologies vied with each other to capture the leaders' mind, the State Constituent assembly was finally asked to incorporate democratic socialism, somewhat in the way as the Indian Constituent Assembly had done with the reference to the Constitution hammered into shape by it. The State Assembly's final option in favour of no compensation to the land-owners in the larger context of the "land to the tillers", was a sort of a pinch of salt or spice thrown into the cauldron of the new polity, in which what was mainly cooking up was a sort of democratic socialism. To the



the philosophy which largely animated the framing of the Constitution in Jammu and Kashmir State was that of democratic socialism.

The functions for which the Constituent Assembly had been called upon to perform were :-

- i) To decide constitution for the future governance of the country;
- ii) To decide the future of the ruling dynasty;
- iii) To decide whether or not compensation should be paid to the landlord; and
- iv) To declare its conclusion regarding accession.

So far as the future Constitution of the State was concerned, Sheikh Abdullah stressed that it should be based on the principles of equality, liberty and social justice, which were the integral features of all progressive constitutions of the world. The rule of law, equality before law and the independence of judiciary should be the corner-stones of the political structure. He further added that the freedom of individual in the matter of speech, movement, association, press and opinion as well as rapid economic development and more equitable distribution of national wealth as given in 'New Kashmir' should be guaranteed. He pleaded that full consideration should be given to the existence of various sub-national groups in the State as well as basic unity of the State. The future constitution, according to him, must afford the fullest possibilities to each of these groups to grow and flourish in conformity with their cultural characteristics, without detriment to the integral unity of the state or the requirements of our social and economic policies.

While referring to the Future of the Ruling Dynasty, Sheikh Abdullah traced out briefly the events which led to the conclusion of the Treaty of Amritsar 1846 and the



transfer of the people and the territory for 75 lakhs of rupees to Maharaja Gulab Singh. He also referred to the suppression coming in the wake of the Dogra rule afterwards. With the withdrawal of the paramount power, he pointed out, the rights of the Indian Princes had ceased and sovereignty had reverted to the people. He stressed that National Conference was convinced that the institution of monarchy was incompatible with the spirit and need of modern times and a constitutional head of the state would have to be chosen to exercise the functions the ~~sansk~~ assembly might choose to entrust to him.

In order to decide whether or not compensation should be paid to the expropriated landlords, Sheikh Abdullah traced out briefly the history of landlordism in Kashmir from Great Moguls down to the Dogra dynasty. He referred to the "land to the tiller" policy of the National Conference as envisaged in the 'New Kashmir'.

As regards the State's accession Sheikh Abdullah referred to the three possible alternatives with their pros and cons. These were as under :-

- a) Accession with the Union of India;
- b) Accession with Pakistan; and
- c) Making Kashmir an Eastern Switzerland i.e. Independent Kashmir.

While explaining the merits of the state's accession with India he mentioned the kinship of ideals between the two States; the support of the Indian National Congress to the cause of State's people's freedom; the steps towards democratization, social reconstruction; justice, freedom, equality for all; guarantee of equality of rights to all citizens (irrespective of their religion, colour, caste and class) and secularism -- as the main basis of the Indian Constitution. He pleaded that these



features of Indian polity would conduce to the security of the Kashmiri Muslims in India. He pointed out that even the economic interests of the people demanded the accession of the state with India -- as land reforms could only be possible in India and not in landlord-ridden Pakistan with so many feudal privileges intact. More industrialised than feudal Pakistan, according to him, India could help the state to exploit the mineral resources and the raw material in which Kashmir was very rich. The essential commodities could be got in large quantities from India. He further said added that as their economic welfare was bound with their arts and crafts, the traditional markets for these precious goods were located in India.

While referring to the second alternative and an argument that as Pakistan was a Muslim state and Kashmir being Muslim majority state, must accede to Pakistan, Sheikh Abdullah pointed out that Pakistan's claims as a Muslim state was only a camouflage, a smoke screen to dupe the common man and an appeal to the religious sentiment. According to him Pakistan was not an organic unity of all Muslims in this sub-continent and was a feudal state where majority of the population was still helpless under the kuffar heels of their rulers and were not guaranteed even the fundamental rights through a democratic constitution. He pointed out the fact that, in Pakistan, the right of self determination was then being denied and those who had fought against imperialism were suppressed. He further stressed that religious affinities did not and should not alone normally determine the political alliances of the states and that is why there was no Christian block, Buddhist block or even Muslim block in modern international politics. Reiterating the economic interests and



community of political ideals between the state and the union of India, Sheikh Abdullah said that these days economic interests and community of ideals more appropriately influence the politics of the states.

While referring to the third alternative i.e. the independence of the state, he pointed out the practical difficulties involved therein. Firstly it was not easy to protect sovereignty, and independence in a small country which had not sufficient strength to defend itself and its long and difficult frontiers bordering in with so many countries. Secondly under the circumstances it was a must for the people of the state to be assured of the goodwill of all their neighbours. Addressing the Council, he reminded the members of the fact that despite the existence of a standstill agreement between independent state of J&K and Pakistan during the period August 15 to October 22, 1947, the state had been invaded by Pakistan and where was the guarantee that in future it might not be the victim of a similar aggression.

Sheikh Mohammad Abdullah concluded his historic statement with the stress that the House must consider the question of accession with open mind, and not let their personal prejudices stand in the way of a balanced judgement. He stressed for the Assembly to weight all these in the scales of their national good and to pronounce where the true well-being of the country lay in future. So far as constitution-making function of the C.A. was concerned, Sheikh Abdullah's policy statement Monday i.e. 5th Nov., 1951 clearly indicated what the consti' would not include. The issues of accession, the ruling dynasty and compensation for dispossessed landlords would be settled through the resolutions.



Indian freedom, the pioneer of liberation movement in Asia and Africa and going to be of 100 years old on December, 28, is the youngest unit. Formed at a crucial phase in the history of the state, it has made a deep impact on the political life of the state. Despite several odds and difficulties created in its way in the early days of its birth, it has established itself firmly in the minds and hearts of the people of the state particularly in Jammu and Ladakh regions. The party made significant achievements in the field of development as well as in uniting democratic forces by advocating a policy of non-confrontation between them for a broad unity of all those wedded to secularism, democracy and national unity. Impressed by the adoption of the socialistic pattern of society as the congress goal and inspired by its progressive policies, G.M. Sadiq stressed the need for the Congress to extend its activities to Kashmir.<sup>1</sup> The working committee of the National Conference of J&K then sent its delegation to the Congress session of Morarji held in January, 1965 for the establishment of a Congress unit in ~~suk~~ state. The National Conference was ultimately merged with Congress party on 26th January, 1965.<sup>2</sup> Like Sadiq, Syed Mir Qasim also followed a policy of political liberalism in the hope that leaders of all shades of political opinion of the state would cooperate in the economic development.<sup>3</sup> Qasim in a press interview welcomed Sheikh Abdullah and other opposition leaders to join the mainstream of the state's political life provided they did not transgress constitutional limits.<sup>4</sup> Moreover, Congress leadership

1. The Times of India of 30th June, 1964.

2. Koul, Santosh: Evolution of the Constitutional Relationship ~~established basis~~ between J&K state and the Indian Union. Unpublished thesis, Jammu University, 1977: pp. 146.

3. The Link: 11th June, 1972, p. 24.

4. The Statesman; 16th January, 1972.



L.T. 28th Sept 1982

12  
SHEIKH ABDULLAH'S HISTORIC ADDRESS TO THE CONSEMBLY  
OF KASHMIR

!!Dr. Vidya Bhushan  
P.G. Deptt. of Pol. Sc.  
University of Jammu!!

The Sheikh's inaugural address to the Jammu and Kashmir Constituent Assembly seems to have a three-fold significance. In the first place, the address is that of a leader who has been the Chief architect of the freedom struggle in the State as a part of the larger National movement which ended the British Rule in India sub-continent. He has also played a leading role in the political drama of the State for about the past half-century, occupying the centre of the stage of the Kashmir political scene most of this time, and indirectly influencing it considerably when circumstances did not occasionally allow his direct presence on the stage.

Secondly, it spells out and highlights the principal Institutions and other empirical formulations which were sought to be enshrined in the State's Constitution and comprise the new Constitutional set-up in Jammu and Kashmir.

Lastly, it is possible to discern in the address, a reflection of some sort of a political philosophy, an ideology or rather a mixture of ideologies and to abstract the same from the matrix of the empirical issues and a cluster of Institutions analysed and discussed therein.

In the very nature of the things, the issues and their ~~formulations~~ formulations in the address, are intermingled with the abstract thought behind them. It therefore, seems proper to briefly touch the main issues and follow them up with the political philosophy which prevailed in the Consembly and was finally projected in its handiwork, the Constitution.

Among the main issues, were the future of the ruling dynasty, the accession of the State to the Indian Union, the question of compensation to the expropriated land-owners, the degree of cultural autonomy to the various territorial units



of the State, fundamental rights, independence of Judiciary and the rule of Law together with the values contained in the concept of socio-economic justice.

As to the ruling dynasty, the Institution of monarchy was pronounced to be incompatible with the spirit and need of modern times and it was desired that the Constitutional head of the State should be chosen by the State Assembly to perform certain functions which may be entrusted to him under the Constitution.

In respect of the State's accession, the address examines the pros and cons of three options open to the Assembly, namely, accession to India, accession to Pakistan and an independent status, making the State as a kind of Switzerland of the East. In favour of the accession to India, the address referred among other things, to community of ideals between the State and rest of India, the support that State's freedom movement received from Indian National Congress, democratic values of Indian Constitution such as rule of law, the Secular approach to social and public life, the commitment to land reforms and other aspects of socio-economic justice.

Explaining the case of accession to Pakistan, the address notes the feudal structure and the communal outlook which had coloured the political life in Pakistan. It marks the inadequacy and outdated nature of religion forming the basis of a modern State, and pointed out irrelevance of religion to present day alliances.

Regarding an independent status for Kashmir, the lack of goodwill for it on the part of its neighbours and some other factors made its viability out of question.

The Assembly was called upon to take a decision on the issue of compensation to the land owners who had lost



part of their land on account of Land-reforms which had been carried out by the new regime.

The manifesto of the National Conference drawn way back in 1944 and entitled 'New Kashmir' contains, among, other things the principle "land to the tillers." The address also stressed the desirability of adopting rule of law, independence of judiciary, fundamental rights such as right to equality, freedom of expression and the values pertaining to the socio-economic justice.

A perusal of the address indicates that the Sheikh (and his party) was considerably influenced by the liberal, democratic traditions of the west, which, incidentally, had also influenced the making of the Indian Constitution. The party also subscribed to certain socialistic values and concepts such as that of socio-economic justice. The "land to the tiller" without compensation to the land-owners for the land of which they were expropriated is, in fact, reminiscent of a Marxist norm. It seems that the two main streams of the western liberal political traditions and the socialism slightly coloured by the Marxist traditions, both clamoured for attention on the part of the party, its leaders and the Assembly. The result of was a kind of a 'mix' of the two traditions, two different ways of life, a kind of amalgam of the values belonging to each traditions.

And, so, as the two philosophies or ideologies vied with each other to capture the leaders' mind, the State Constituent assembly was finally asked to incorporate democratic socialism, somewhat in the way as the Indian Constituent Assembly had done with the reference to the Constitution hammered into shape by it. The State Assembly's final option in favour of no compensation to the land-owners in the larger context of the "land to the tillers", was a sort of a pinch of salt or spice thrown into the cauldron of the new polity, in which what was mainly cooking up was a sort of democratic socialism. To restore



the philosophy which largely animated the framing of the Constitution in Jammu and Kashmir State was that of democratic socialism.

The functions for which the Constituent Assembly had been called upon to perform were :-

- i) To decide constitution for the future governance of the country;
- ii) To decide the future of the ruling dynasty;
- iii) To decide whether or not compensation should be paid to the landlord; and
- iv) To declare its conclusion regarding accession.

So far as the future Constitution of the State was concerned, Sheikh Abdullah stressed that it should be based on the principles of equality, liberty and social justice, which were the integral features of all progressive constitutions of the world. The rule of law, equality before law and the independence of judiciary should be the corner-stones of the political structure. He further added that the freedom of individual in the matter of speech, movement, association, press and opinion as well as rapid economic development and more equitable distribution of national wealth as given in 'New Kashmir' should be guaranteed. He pleaded that full consideration should be given to the existence of various sub-national groups in the State as well as basic unity of the State. The future constitution, according to him, must afford the fullest possibilities to each of these groups to grow and flourish in conformity with their cultural characteristics, without detriment to the integral unity of the state or the requirements of our social and economic policies.

While referring to the future of the Ruling Dynasty, Sheikh Abdullah traced out briefly the events which led to the conclusion of the Treaty of Amritsar 1846 and the



transfer of the people and the territory for 75 lakhs of rupees to Maharaja Gulab Singh. He also referred to the suppression coming in the wake of the Dogra rule afterwards. With the withdrawal of the paramount power, he pointed out, the rights of the Indian Princes had ceased and sovereignty had reverted to the people. He stressed that National Conference was convinced that the institution of monarchy was incompatible with the spirit and need of modern times and a constitutional head of the state would have to be chosen to exercise the functions the people might choose to entrust to him.

In order to decide whether or not compensation should be paid to the expropriated landlords, Sheikh Abdullah traced out briefly the history of landlordism in Kashmir from Great Moguls down to the Dogra dynasty. He referred to the "land to the tiller" policy of the National Conference as envisaged in the 'New Kashmir'.

As regards the State's accession Sheikh Abdullah referred to the three possible alternatives with their pros and cons. These were as under :-

- a) Accession with the Union of India;
- b) Accession with Pakistan; and
- c) Making Kashmir an Eastern Switzerland i.e. Independent Kashmir.

While explaining the merits of the state's accession with India he mentioned the kinship of ideals between the two States; the support of the Indian National Congress to the cause of State's people's freedom; the steps towards democratization, social reconstruction; justice, freedom, equality for all; guarantee of equality of rights to all citizens (irrespective of their religion, colour, caste and class) and secularism -- as the main basis of the Indian Constitution. He pleaded that these



features of Indian polity would conduce to the security of the Kashmiri Muslims in India. He pointed out that even the economic interests of the people demanded the accession of the state with India -- as land reforms could only be possible in India and not in landlord-ridden Pakistan with so many feudal privileges intact. More industrialised than feudal Pakistan, according to him, India could help the state to exploit the mineral resources and the raw material in which Kashmir was very rich. The essential commodities could be got in large quantities from India. He further ~~also~~ added that as their economic welfare was bound with their arts and crafts, the traditional markets for these precious goods were located in India.

While referring to the second alternative and an argument that as Pakistan was a Muslim state and Kashmir being Muslim majority state, must accede to Pakistan, Sheikh Abdullah pointed out that Pakistan's claims as a Muslim state was only a camouflage, a smoke screen to dupe the common man and an appeal to the religious sentiment. According to him Pakistan was not an organic unity of all Muslims in this sub-continent and was a feudal state where majority of the population was still helpless under the ~~huxx~~ hands of their rulers and were not guaranteed even the fundamental rights through a democratic constitution. He pointed out the fact that, in Pakistan, the right of self determination was then being denied and those who had fought against imperialism were suppressed. He further stressed that religious affinities did not and should not alone normally determine the political alliances of the states and that is why there was no Christian block, Buddhist block or even Muslim block in modern international politics. Reiterating the economic interests and



community of political ideals between the state and the union of India, Sheikh Abdullah said that these days economic interests and community of ideals more appropriately influence the politics of the states.

While referring to the third alternative i.e. the independence of the state, he pointed out the practical difficulties involved therein. Firstly it was not easy to protect sovereignty, and independence in a small country which had not sufficient strength to defend itself and its long and difficult frontiers bordering in with so many countries. Secondly under the circumstances it was a must for the people of the state to be assured of the goodwill of all their neighbours. Addressing the Council, he reminded the members of the fact that despite the existence of a standstill agreement between independent state of J&K and Pakistan during the period August 15 to October 31, 1947, the state had been invaded by Pakistan and where was the guarantee that in future it might not be the victim of a similar aggression.

Sheikh Mohd Abdullah concluded his historic statement with the stress that the House must consider the question of accession with open mind, and not let their personal prejudices stand in the way of a balanced judgement. He stressed for the Assembly to weight all these in the scales of their national good and to pronounce where the true well-being of the country lay in future. So far as constitution-making function of the C.A. was concerned, Sheikh Abdullah's policy statement Monday i.e. 5th Nov., 1951 clearly indicated what the constitution would not include. The issues of accession, the ruling dynasty and compensation for dispossessed landlords would be settled through the resolutions.



## THE EMERGENCE OF THE LEBLIST AND RIGHTS MOVEMENTS AND THEIR PARTIES POLITICS IN THE STATE.

The concept of movement within a Political and Social context is said to have been emerged from the experience of the French Revolution of 1789 and from the continuing struggle against the established authority in different countries in Europe. It is an organised attempt on the part of a section of a society to bring about either partial or total change in it through collective mobilization based on ideology. Whenever a movement develops a high degree of formal organisation, it ceases to be a movement and becomes a part of the internationalised system losing its innovative features.

For over the last several centuries, the organisation and conduct of political have been complicated by the development of political parties and specific institutions for legislation, administration and adjudication. In earlier days government was simple because the society was simple as it had static social structures, agrarian economy and largely self-sufficient community of citizens. When the society of today has become highly urbanized, economy is geared up for industrial production and many citizens turn to government for the services, big governments are organised. As a result the opportunities for political conflict have increased along with the economic development and created new values, attitudes, interests and proliferation of ideologies reflects these fundamental changes in our way of life and in the organisation of our society and government.



However, of all the political ideas that have gone into shaping our modern World none has gained wider usage or wielded greater influences than the Left- Right concept. of political relationship. In fact this concept visualises our political World as a spectrum stretching between two polar extremes The extremes left denoting revolutionary radicalism and extreme right devoting revolutionary reactionism. The various political schools of thought are, therefore, reanged between the colours of spectrum according to the intensity of their tendencies.<sup>3</sup>



~~the emergence and the politics of the~~  
~~the emergence of the 'Rightists' And the 'Leftist'~~  
political parties in Jammu & Kashmir

~~the emergence~~ ~~of the~~ emergence of the Rightist and the Leftist  
And the politics  
of the Leftist movements and their politics in the  
and Rightist J & K State. The emergence of the Leftist and Rights  
political movements in the state and their parties  
parties in politics in the state.

The concept of movement within a political  
and social context is said to have been emerged from  
the experience of the French Revolution of 1789 and  
from the continuing struggle against the established  
authority in different countries in Europe. It is an  
organised attempt on the part of a section of a society  
to bring about either partial or total change in  
it through collective mobilization based on ideology.  
Whenever a movement develops a high degree  
of formal organisation, it ceases to be a  
movement and becomes a part of the international-  
alised system losing its innovative features.

~~However~~, ~~For~~ over the last several centuries, the  
organisation and conduct of political have been  
complicated by the development of political  
parties and specific institutions for legislation,  
administration and adjudication. In earlier days  
government was simple because the society was  
simple as it had static social structures,  
agrarian economy and largely self-sufficient  
community of all citizens. When the society of



has become highly urbanized, economy is geared up for industrial production and many citizens turn to government for the services, big governments are organised. As a result the opportunities for political conflict have increased along with the economic development and created new values, attitudes, interests and the proliferation of ideologies reflects these fundamental changes in our way of life and in the organization of our society and government.<sup>2</sup>

However, of all the political ideas that have gone into shaping our modern world none has gained wider usage or wielded greater influence than the 'Left - Right' concept of political relationships. In fact this concept visualises our political world as a spectrum stretching between two polar extremes - the extremes left denoting revolutionary radicalism and extreme right denoting revolutionary reactionism. The various political schools of thought are, therefore, ranged between the colours of spectrum according to the intensity of their tendencies.<sup>3</sup>



SHEIKH ABDULLAH'S HISTORIC ADDRESS TO THE CONSEMBLY  
OF KASHMIR

11 Dr. Vidya Bhushan  
P.G. Deptt. of Pol. Sc.  
University of Jammu

The Sheikh's inaugural address to the Jammu and Kashmir Constituent Assembly seems to have a three-fold significance. In the first place, the address is that of a leader who has been the Chief architect of the freedom struggle in the State as a part of the larger National movement which ended the British Rule in India sub-continent. He has also played a leading role in the political drama of the State for about the past half-century, occupying the centre of the stage of the Kashmir political scene most of this time, and indirectly influencing it considerably when circumstances did not occasionally allow his direct presence on the stage.

Secondly, it spells out and highlights the principal Institutions and other empirical formulations which were sought to be enshrined in the State's Constitution and comprise the new Constitutional set-up in Jammu and Kashmir.

Lastly, it is possible to discern in the address, a reflection of some sort of a political philosophy, an ideology or rather a mixture of ideologies and to abstract the same from the matrix of the empirical issues and a cluster of Institutions analysed and discussed therein.

In the very nature of the things, the issues and their empirical formulations in the address, are intermingled with the abstract thought behind them. It therefore, seems proper to briefly touch the main issues and follow them up with the political philosophy which prevailed in the Consenbly and was finally projected in its handiwork, the Constitution.

Among the main issues, were the future of the ruling dynasty, the accession of the State to the Indian Union, the question of compensation to the expropriated land-owners, the degree of cultural autonomy to the various territorial units



of the State, fundamental rights, independence of Judiciary and the rule of Law together with the values contained in the concept of socio-economic justice.

As to the ruling dynasty, the Institution of Monarchy was pronounced to be incompatible with the spirit and need of modern times and it was desired that the Constitutional head of the State should be chosen by the State Assembly to perform certain functions which may be entrusted to him under the Constitution.

In respect of the State's accession, the address examines the pros and cons of three options open to the Assembly, namely, accession to India, accession to Pakistan and an independent status, making the State as a kind of Switzerland of the East. In favour of the accession to India, the address referred among other things, to community of ideals between the State and rest of India, the support that State's freedom movement received from Indian National Congress, democratic values of Indian Constitution such as rule of law, the Secular approach to social and public life, the commitment to land reforms and other aspects of socio-economic justice.

Explaining the case of accession to Pakistan, the address notes the feudal structure and the communal outlook which had coloured the political life in Pakistan. It marks the inadequacy and outdated nature of religion forming the basis of a modern State, and pointed out irrelevance of religion to present day alliances.

Regarding an independent status for Kashmir, the lack of goodwill for it on the part of its neighbours and some other factors made its viability out of question.

The Assembly was called upon to take a decision on the issue of compensation to the land owners who had lost



part of their land on account of land-reforms which had been carried out by the new regime.

The manifesto of the National Conference drawn way back in 1944 and entitled 'New Kashmir' contains, among, other things the principle "land to the tillers." The address also stressed the desirability of adopting rule of law, independence of judiciary, fundamental rights such as right to equality, freedom of expression and the values pertaining to the socio-economic justice.

A perusal of the address indicates that the Sheikh (and his party) was considerably influenced by the liberal, democratic traditions of the west, which, incidentally, had also influenced the making of the Indian Constitution. The party also subscribed to certain socialistic values and concepts such as that of socio-economic justice. The "land to the tiller" without compensation to the land-owners for the land of which they were expropriated is, in fact, reminiscent of a Marxist norm. It seems that the two main streams of the western liberal political traditions and the socialism slightly coloured by the Marxist traditions, both clamoured for attention on the part of the party, its leaders and the Assembly. The result of was a kind of a 'mix' of the two traditions, two different ways of life, a kind of amalgam of the values belonging to each traditions.

And, so, as the two philosophies or ideologies vied with each other to capture the leaders' mind, the State Constituent assembly was finally asked to incorporate democratic socialism, somewhat in the way as the Indian Constituent Assembly had done with the reference to the Constitution hammered into shape by it. The State Assembly's final option in favour of no compensation to the land-owners in the larger context of the "land to the tillers", was a sort of a pinch of salt or spice thrown into the cauldron of the new polity, in which what was mainly cooking up was a sort of democratic socialism. To reiterate



the philosophy which largely animated the framing of the Constitution in Jammu and Kashmir State was that of democratic socialism.

The functions for which the Constituent Assembly had been called upon to perform were :-

- i) To decide constitution for the future governance of the country;
- ii) To decide the future of the ruling dynasty;
- iii) To decide whether or not compensation should be paid to the landlord; and
- iv) To declare its conclusion regarding accession.

So far as the future Constitution of the State was concerned, Sheikh Abdullah stressed that it should be based on the principles of equality, liberty and social justice, which were the integral features of all progressive constitutions of the world. The rule of law, equality before law and the independence of judiciary should be the corner-stones of the political structure. He further added that the freedom of individual in the matter of speech, movement, association, press and opinion as well as rapid economic development and more equitable distribution of national wealth as given in 'New Kashmir' should be guaranteed. He pleaded that full consideration should be given to the existence of various sub-national groups in the State as well as basic unity of the State. The future constitution, according to him, must afford the fullest possibilities to each of these groups to grow and flourish in conformity with their cultural characteristics, without detriment to the integral unity of the state or the requirements of our social and economic policies.

While referring to the future of the Ruling Dynasty, Sheikh Abdullah traced out briefly the events which led to the conclusion of the Treaty of Amritsar 1846 and the



transfer of the people and the territory for 75 lakhs of rupees to Maharaja Gulab Singh. He also referred to the suppression coming in the wake of the Dogra rule afterwards. With the withdrawal of the paramount power, he pointed out, the rights of the Indian Princes had ceased and sovereignty had reverted to the people. He stressed that National Conference was convinced that the institution of monarchy was incompatible with the spirit and need of modern times and a constitutional head of the state would have to be chosen to exercise the functions the constituent assembly might choose to entrust to him.

In order to decide whether or not compensation should be paid to the expropriated landlords, Sheikh Abdullah traced out briefly the history of landlordism in Kashmir from Great Moghuls down to the Dogra dynasty. He referred to the "land to the tiller" policy of the National Conference as envisaged in the 'New Kashmir'.

As regards the State's accession Sheikh Abdullah referred to the three possible alternatives with their pros and cons. These were as under :-

- a) Accession with the Union of India;
- b) Accession with Pakistan; and
- c) Making Kashmir an Eastern Switzerland i.e. Independent Kashmir.

While explaining the merits of the state's accession with India he mentioned the kinship of ideals between the two States; the support of the Indian National Congress to the cause of State's people's freedom; the steps towards democratisation, social reconstruction; justice, freedom, equality for all; guarantee of equality of rights to all citizens (irrespective of their religion, colour, caste and class) and secularism -- as the main basis of the Indian Constitution. He pleaded that these



features of Indian polity would conduce to the security of the Kashmiri Muslims in India. He pointed out that even the economic interests of the people demanded the accession of the state with India -- as land reforms could only be possible in India and not in landlord-ridden Pakistan with so many feudal privileges intact. More industrialised than feudal Pakistan, according to him, India could help the state to exploit the mineral resources and the raw material in which Kashmir was very rich. The essential commodities could be got in large quantities from India. He further ~~also~~ added that as their economic welfare was bound with their arts and crafts, the traditional markets for these precious goods were located in India.

While referring to the second alternative and an argument that as Pakistan was a Muslim state and Kashmir being Muslim majority state, must accede to Pakistan, Sheikh Abdullah pointed out that Pakistan's claims as a Muslim state was only a camouflage, a smoke screen to dupe the common man and an appeal to the religious sentiment. According to him Pakistan was not an organic unity of all muslims in this sub-continent and was a feudal state where majority of the population was still helpless under the ~~xxxx~~ hands of their rulers and were not guaranteed even the fundamental rights through a democratic constitution. He pointed out the fact that, in Pakistan, the right of self determination was then being denied and those who had fought against imperialism were suppressed. He further stressed that religious affinities did not and should not alone normally determine the political alliances of the states and that is why there was no Christian block, Buddhist block or even Muslim block in modern international politics. Reiterating the economic interests and



community of political ideals between the state and the union of India, Sheikh Abdullah said that these days economic interests and community of ideals more appropriately influence the politics of the states.

While referring to the third alternative i.e. the independence of the state, he pointed out the practical difficulties involved therein. Firstly it was not easy to protect sovereignty, and independence in a small country which had not sufficient strength to defend itself and its long and difficult frontiers bordering in with so many countries. Secondly under the circumstances it was a must for the people of the state to be assured of the goodwill of all their neighbours. Addressing the Council, he reminded the members of the fact that despite the existence of a standstill agreement between independent state of J&K and Pakistan during the period August 15 to October 22, 1947, the state had been invaded by Pakistan and there was the guarantee that in future it might not be the victim of a similar aggression.

Sheikh Mohd Abdullah concluded his historic statement with the stress that the House must consider the question of accession with open mind, and not let their personal prejudices stand in the way of a balanced judgement. He stressed for the Assembly to weight all these in the scales of their national good and to pronounce where the true well-being of the country lay in future. So far as constitution-making function of the C.A. was concerned, Sheikh Abdullah's policy statement Monday i.e. 5th Nov., 1951 clearly indicated what the consti' would not include. The issues of accession, the ruling dynasty and compensation for dispossessed landlords would be settled through the resolutions.



REGIONAL IRRITANTS AND TENSIONS IN JAMMU AND KASHMIR  
SINCE INDEPENDENCE

\* Vidya Bhushan

The State of Jammu and Kashmir is a union of the three geographically dislocated, culturally dissimilar and linguistically distinct regions viz Kashmir Valley, Jammu and Ladakh. The political and emotional divergence between these have been, thus, growing over the years. As there also exists communal dichotomy, regionalism, an awareness of one's own cultural heritage, historical traditions and a sense of political individuality, there have been contradictions and controversies, turmoils and clashes of conflicting interests of different regions. Although the force behind the political union for administrative convenience of such a diversified regions was Maharaja Gulab Singh - the Dogra overlord who kept the whole of Dogra pradesh (Jammu), Kashmir and Ladakh under control per force, yet no serious attempt had so far been made for cohesion, solidarity and integration of the people of these regions by the fusion of their distinct steams of culture, ways of life and thoughts.

However, the general picture of a geo - political profile of the Kashmir state clearly depicts that it is not homogeneous but heterogeneous in nature. In heterogeneity actually lies in the multiplicity of its religions, languages, races, regional and sub-regional cultures, ethnic compositions, and over the years growing political and cultural divergence among its various regions viz Jammu, Kashmir and Ladakh.

---

\* Professor of Political Science, University of Jammu, Jammu.

A paper to be presented in seminar on "Democracy, Discontent and Societal Conflicts in South Asia" organised by Deptt. of Political Science, Himachal Pradesh University, Summer Hill, Shimla from 9-11 May, 1997.



All this resulted in not only sharpening<sup>of</sup> the regional identities, the absence of the inter-regional, inter-communal political party deriving its legitimacy from all the three regions of the State despite an uninterrupted one party dominant rule in the State since independence, helped in developing, in each of the regions its distinct and aggressive political entity but also its divergent political aspirations without caring for the interests of other two regions.

As the geo-political position of the State of J&K is so strategic and delicate the regional diversities in different aspects led to fragmentation and complications of politics of the State as well strengthening the adversaries within and also across the borders touching it.

Unfortunately Kashmiri leaders during their struggle against autocracy, often insisted on calling Maharaja Hari Singh's — (the last dogra ruler) rule in the State as Dogra rule. They forget that Dogra was not only the name of the then ruling family but also the community living in Jammu region. They, thus, alienated the Dogra people. At the same time the popular sentiments in Jammu region, believing the Maharaja as the symbol of their security against the majority community, particularly of Kashmir region, linked their fate and security with the Maharaja. The Dogra nationalists in Jammu region, therefore, believing the Maharaja as a political and cultural symbol, sided with him in his attempt to retain more and more power in pre-independence period. It seemed to Dogra nationalists that prospectus of democracy in the state would be nothing more than being exposed to the whims of a permanent majority (i.e. Kashmir Muslims) of the State and its leadership. They, thus, opposed the very basis of



Kashmir's struggle for freedom. Moreover, the open condemnation of Dogra Maharaja by the Kashmiri leadership, not only created but hardened Jammu distrust against Kashmiri leadership. The Dogras of Jammu, therefore, opposed every political move from the Valley without evaluating its plus and minus points. They, in short, played a negative role through out the period of struggle for freedom from autocracy in Kashmir.

However, the Post-independence politics of Jammu appeared <sup>based on</sup> to be/both inter-regional and intra-regional conflicts. The Hindu dominated belt of Jammu had found its effective expression in the Hindu dominated party known as The All Jammu And Kashmir Praja Parishad, which first sought the security of Dogras in the retention of the Maharaja as a Constitutional head of the State and then favoured full accession of the State with Indian Union, and opposed the granting of special status to Kashmir. The ouster of Maharaja, and subsequently abolition of monarchy, further deepened the distrust of the Dogras of Jammu against Kashmir leadership. They even opposed the most needed and most radical reforms of the National Conference govt. such as grant of fixity of tenure to the tenants in respect of tenancy holdings, fixation of the maximum rental payable by the tenant to his landlord, providing for summary reinstatement of a tenant, who had been wrongfully ejected; restitution of mortgaged properties; relief <sup>under</sup> / the Distressed Debtors Act, abolition of Jagirs, Mufais and Mukararies; and even the Big Landed Estate Abolition Act of 1950. They under the banner of Praja Parishad - the Principal opposition party, most vocal instrument of its protest and most authentic voice of Jammu-opposed the incorporation of Article 370 in the Indian Constitution.



under which State secured a special status. They raised the slogans Ek Pradhan, Ek Vidhan, and Ek Nishan.

They were, however, not in a mood of raising the voice for rights of Jammu Vis-a-vis that of Kashmir by narrowing down their demands to such a limit they even lost the confidence of Jammu Muslims. The Dogra nationalists were opposed to the convening of the State Constituent Assembly and framing a separate constitution for it. It may not out of place to mention that due to their due to their minority against Indian majority, the Kashmir nationalists, on the other hand, wanted maximum autonomy, stood for limited accession of the State with Indian Union, making Article 370 as a permanent feature of the Indian Constitution. Sheikh Mohammad Abdulla, in his letter to Dr. Mukerjee Dated 4th February, 1953, made it quite clear that so far as Kashmiris were concerned, they had maintained that the special position accorded to the State could alone be the source of a growing unity and closer association between the State and India. He further stressed that if that basis of relationship was unilaterally altered, certain daring consequences were bound to follow. In 1949, Sheikh Abdullah's Cabinet consisted of only one Cabinet Minister from Jammu and though the position (improved marginally under subsequent regimes) the fact remained that the effective political and economic power remained to be vested in Kashmir.

Inter-regional tensions as well as fear of dominance of one region over the other was manifest once again during the elections of Kashmir Constituent Assembly in 1951, the Dogras of Jammu charged that in official policies, assistance to economic development, recruitment and promotion in administration, Jammu was discriminated against even Dr. Karan Singh



(Sadar-e-Riasyat) had also confirmed it.

The Dogra nationalists pleaded for the transfer of more and more powers from Kashmir to Delhi rather than powers for Jammu itself. They even did not thought collectively about the whole of the State of J&K and their place in it. Rather they made anti-Kashmir, anti-Sheikh, anti-autonomy speeches. The regional sentiments, therefore, helped to fragment popular discontent and religious tension wrought <sup>their</sup> / regional cordiality to an end. Meanwhile Kaushak Bakuba - a head lama of Ladakh and a member of constituent Assembly - demanded for a statutory provision for Ladakh in future constitution of the State. A section of Doda district led by A.G. Goni too stressed that Doda district should also be given a status of a separate cultural unit. They demanded that the State to be divided into as many as five cultural units, each with equal status and to enjoy autonomy in the conduct of their internal affairs. Even Dr. Mukerjee in his letter to Sheikh Abdulla dated 4.2.1953 confirmed the sense of insecurity among the Jammu Hindus and in his letter to Pt. Nehru of 12.2.1953 suggested the grant of provincial autonomy to Jammu and Ladakh without the change of boundaries. Pt. Nehru too, in his reply to Mukerjee, appreciated the idea of regional autonomy. Sheikh Abdullah while broadcasting from Radio Kashmir Srinagar on April 17th 1953 also proposed to give autonomy to the different cultural units of the State. The idea seemed to be that a measure of autonomy in their internal affairs would remove the fears of each of these units against the others and would provide a moral, natural and non-communal impetus for a sense of belonging which alone could effectively counter the appeal for secession or independence in the Valley and fix integration of the state with the Indian Union in Jammu.



But when the Basic Principal Committee of the Constituent Assembly was instructed to study this idea and make recommendations accordingly, the integrationists of Jammu rejected this idea. Perhaps their policy for the search for security induced them to follow a negative approach and to agitate for highly unified constitution. In the similar manner they opposed Sadar-i-riyasat as the head of the State, a separate emblem and a separate flag for the State. They regarded these as counter to their concept of <sup>a</sup> strong united centre. Such a stand of Jammu guaranteed reaction in the Valley and provoked some of the Kashmiris to consolidate secessionalist groups and to form

Secessionalist party. B.P. Sharma, therefore rightly pointed out that the role of Jammu and Kashmir in State politics was complementary to each other though unwillingly. Even Mr. Gurcharan Singh Bhatia as early as in 1953 said "National Conference and Praja Parishad represent urges of the aggressive local nationalism of Kashmir and Jammu respectively. The outbursts of the Kashmiri leaders against Jammu help Praja Parishad in mobilising the public support while anti-Kashmiri campaign of the P.P simply provokes and intensifies Kashmiri nationalism of which Sheikh Abdullah is the hero." Balraj Puri while confirming the same view rightly pointed out that the Praja Parishad and the National Conference by polarising the politics of the State helped each other in consolidating their hold on their respective communities.

Suddenly, inflammatory reports spread that Sheikh was thinking to declare Kashmir an independent, the idea of which said to have been mooted by American statesman, Mrs. and Mr. Handerson during their visit to Kashmir in May 1953. The tragedy was that Sheikh Abdullah was misunderstood and his urge



for maximum autonomy for the State was just taken for independence. All along he tried to avoid the disintegration of the State. That was why, in order to accommodate the wishes of the masses of the different regional and cultural units of the State he and his colleagues were working to create a republic, within a republic. Even Sri Amar Kashtriya Prantic Sabha Jammu offered the idea of a republic within the republic and the adoption of State emblem. It also termed the consenbly of Kashmir as bogus consenbly.

Meanwhile with the sudden death of Dr. S.P. Mukerjee in detention, the whole northern India plunged into profound grief and submerged by a kind of Anti-Nehru and Anti-Abdullah wave. P.P. refused to believe that death occurred <sup>in</sup> / natural circumstances and charged Sheikh Abdullah as murderer <sup>in</sup> / spite of the fact he pleaded to be innocent.

However, the first popular elected Sheikh Ministry was dismissed on 8th August 1953 and Sheikh alongwith his other supporters were arrested on 9th August. But Sheikh's political martyrdom made him a popular hero of Kashmir once again. Bakshi, who succeeded Sheikh, while broaddasting from Radio Kashmir on 21st August, 1953 declared, "the rights and privileges that we secure for the State as a whole have to be shared in equal measure by the people of its different parts; the Government would secure equal share of its beneficent activities to the people of various constituent units of the State and to safeguard representation of all regions in every sphere of administration and social life."



Dogra nationalists, on the other hand, seemed to be pacified with the fall of first Sheikh Ministry and his arrest. That was why, its leaders easily fell in the trap of Bakshi, who required their support to consolidate his political position. Pt. Prem Nath Dogra in his letter to Bakshi dated 1.2.1954 reminded him <sup>of</sup> his assurances made to him and pleaded for their fulfilment.

However, the reconstituted Basic Principles Committee submitted report to the Constituent Assembly which was adopted un-animously with minor amendment on 6th February, 1954. Pt. Prem Nath Dogra in his 15 pages memorandum submitted to the President of India on the first April 1954 raised <sup>a</sup> number of objections against the constitutional proposals. Here again he demanded the shift of more and more powers from Kashmir to the Central Government rather than demanding the sharing of the political powers with Kashmir. Bakshi, however, succeeded in creating defection within P.P. by distributing favours to some of its leaders and thus tried to weaken the party.

When the State Constitution was framed, there had been a realization of the inter-regional tensions and a half hearted attempt to meet it had been made by providing for parity between the two regions in the 36 member Legislative Council. But this was never followed to its logical conclusion and Jammu remained very much a political colony of Kashmiri leadership.

Even after the merger of P.P. in Jana Sangh in 1964 the Dogra nationalists of Jammu continued to play a negative role. They were always worried about the shift of more and more powers from Kashmir to Delhi but never thought and fought for Jammu's status within the state. Some of the



individuals and groups even within the All J&K National Conference, though in minority, did try in a submissive manner, for the recognition of Jammu's regional autonomy as well as its equitable share in the power structure of the state as early as in 1949. (e.g. Balraj Puri, Gopal Dutt Mengi, Jotshi Ram Karishan etc) But they were subsequently expelled from the party. The J&K Youth Conference and Friends of New Kashmir, Delhi, the Socialist groups, later on P.S.P., Jammu Autonomy Forum, a group of Jana Sangh workers lead by S. Bachan Singh Panchi, Balraj Puri in J&K State People's Convention in October 1968 also tried to articulate Jammu's regional urges on secular lines. Their main emphasis was that whatever measures of autonomy had been promised to the State within Indian Union should also be conceded to Jammu region. The consensus of the people's convention was that any solution of the State's future should be peaceful, democratic, just and realistic and in keeping in view the interests of all the regions and set at rest a controversy which was one of sources of tensions in the inter-regional relations.

Dr. Karan Singh, in a statement to London Times in May 1968 had proposed linguistic reorganisation of the State and merger of Jammu with adjoining H.P. But the idea was not welcomed and received severe attack from almost the entire political spectrum. J.S. leadership pointed out that by isolating Kashmir, the Muslims would be so preponderant that we would lose it to Pakistan. Whereas Communist leaders thought that "it was a part of sinister American Plot." Mr. S. B. Datta the then Chief Minister called it an important idea which was fraught with dangerous consequences, and should be resisted with all might.



The idea of regional autonomy within the framework of the State was also endorsed by 130 prominent state citizens belonging to all walks of life and communities including politicians, social workers, writers, intellectuals, retired civil servants, doctors and advocates. But almost all the political parties and the centre opposed this idea.

With regrets it is to be pointed out that Jammu protests and sacrifices during all the years got into a defeatist channel. The Dogra nationalist failed to understand that the lack of adequate share in political power was one of the basic problems of Jammu. Jammu needed the safeguards within the State on precisely the same grounds on which Kashmir feels the need within Indian Union.

India too played a negative role. The Indian leadership always thought that Jammu and Ladakh had no other option except India. Whenever, therefore, people of Jammu raised their voice for their rights, they were dubbed by them as communalist. Their eyes always focussed on valley in order to improve their secular image in the World. Whatever concessions were given, <sup>these were</sup> given to the valley and they did not bother much for Jammu and Ladakh.

The Gajendragadkar Commission, appointed by the then State Government, in consultation with Union Govt. on 6th November, 1967

submitted its report on November 29, 1968. The Commission had made a positive contribution to the debate on interregional relations in the two major aspects. Firstly, it stressed the need for recognition of regional identities in various field of governmental activities. Secondly, while recognizing the paramountcy of political aspirations of regions, conceded that even if all the matters were suitably settled down among the regions, there would still be some measures of discontentment unless the Political



aspirations of the different regions of the states were fully satisfied. In order to satisfy the political urges of the regions, the Commission recommended for the establishment of a convention that if Chief Minister belonged to one region, there should be Dy. Chief Minister belonging to the other. Moreover, the number of Cabinet Minister belonging to the regions - Jammu and Kashmir - should be equal and a full fledged Cabinet Minister from Ladakh be in the State Cabinet. Unfortunately, the State Government still continued its policy of inaction on the report and all its recommendations were not fully implemented.

The atrocities committed by the Pak armies on their Muslim brethren in civil war in east Pakistan, the assistance rendered by India to them and subsequent emergence of Bangladesh as an independent country had a considerable effect on Kashmir politics. It strengthened the secular forces, reduced the bargaining capacity of the Kashmiri leaders to balance India and Pakistan, created popular disillusionment with Pakistan and resurgence of regional patriotism against the appeal of Muslim solidarity. Thus Indo-Pak war of 1971 and emergence of Bangladesh created favourable atmosphere for the negotiations between Kashmiri and Indian leadership to sort out differences.

However, after 22 years the wisdom dawned upon the Indian leaders once again that Sheikh Abdullah was an undisputed leader of the valley and <sup>the</sup> only person who could set at rest most of the controversies about Kashmir accession and others, the negotiation between P.M. and Sheikh Abdullah thus started and resulted into Indira-Sheikh accord of 1975.



For over half a century, till his death Sheikh Abdullah symbolized the aspirations of regional nationalism of Kashmir. He could, therefore, had the capacity to settle the problem of inter-regional relations. In the last phase of his life he reacted sharply even to the slightest provocation from Jammu region. For instance, when Dr. Karan Singh in December 1978 said, "If State Government did not tackle Jammu situation with understanding and sympathy, it would lead to separation of Jammu from Kashmir valley." Sheikh reacted quickly and said, "if the majority of people in Jammu region believed that they could progress by carving out a separate state of Jammu, then there was nothing to stop them and we must part as friends." Even in post Indira-Sheikh accord of 1975 when Sheikh accepted the finality of State accession to India and disbanded plebiscite front, instead of fighting for the right of Jammu, the Congress Party supported Sheikh Abdullah and his regime. But due to the opposition of Jana Sangh and Congress Parties in Jammu he even could not implement the decisions of J&K State People's Convention of 1968 relating to inter-regional relationship.

The recently organised Jammu Mukti Morcha, an organisation of some of newly emerging political elites of Jammu, believes that with the backing of the Central Government the Kashmiri rulers have always manipulated their permanent dominating positions in all walks of life and, thus, denied Jammu its due share in political power and economic development of the State. They, therefore, believe that the only remedy of all ills of inter-regional relations of the State is its trifurcation. This idea, too, is being opposed by both the integrationists, autonomists and fundamentalists parties and groups within as well as outside the State.



While summing up I may say that Kashmiri leadership right from Sheikh Mohammad Abdullah down to Dr. Farooq Abdullah was never serious to share political powers with the other two regions of the State. Even in employment and developmental matters the people of Jammu and Ladakh have been constantly denied their legitimate and due share. The real hunger of the two regions - Jammu and Ladakh, has been the sharing of political power with the Valley. The only remedy of the inter-regional distrust, irritations and tensions is, therefore, the equitable division of political power among the three principal regions of the State through a mechanism acceptable to the people of each of these regions.

--.000.--



REGIONAL IRRITATIONS AND TENSIONS IN JAMMU AND KASHMIR  
SINCE INDEPENDENCE

\* Vidya Bhushan

The State of Jammu and Kashmir is a union of the three geographically dislocated, culturally dissimilar and linguistically distinct regions viz Kashmir Valley, Jammu and Ladakh. The political and emotional divergence between these have been, thus, growing over the years. As there also exists communal dichotomy, regionalism, an awareness of one's own cultural heritage, historical traditions and a sense of political individuality, there have been contradictions and controversies, turmoils and clashes of conflicting interests of different regions. Although the force behind the political union for administrative convenience of such a diversified regions was Maharaja Gulab Singh - the Dogra overlord who kept the whole of Dogra pradesh (Jammu), Kashmir and Ladakh under control per force, yet no serious attempt had so far been made for cohesion, solidarity and integration of the people of these regions by the fusion of their distinct steems of culture, ways of life and thoughts.

However, the general picture of a geo - political profile of the Kashmir state clearly depicts that it is not homogeneous but heterogeneous in nature. In heterogeneity actually lies in the multiplicity of its religions, languages, races, regional and sub-regional cultures, ethnic compositions, and over the years growing political and cultural divergence among its various regions viz Jammu, Kashmir and Ladakh.

---

\* Professor of Political Science, University of Jammu, Jammu.

A paper to be presented in seminar on "Democracy, Discontent and Societal Conflicts in South Asia" organised by Deptt. of Political Science, Himachal Pradesh University, Summer Hill, Shimla from 9-11 May, 1997.



REGIONAL IRRITATIONS AND TENSIONS IN JAMMU AND KASHMIR  
SINCE INDEPENDENCE

\* Vidya Bhushan

The State of Jammu and Kashmir is a union of the three geographically dislocated, culturally dissimilar and linguistically distinct regions viz Kashmir Valley, Jammu and Ladakh. The political and emotional divergence between these have been, thus, growing over the years. As there also exists communal dichotomy, regionalism, an awareness of one's own cultural heritage, historical traditions and a sense of political individuality, there have been contradictions and controversies, turmoils and clashes of conflicting interests of different regions. Although the force behind the political union for administrative convenience of such a diversified regions was Maharaja Gulab Singh - the Dogra overlord who kept the whole of Dogra pradesh (Jammu), Kashmir and Ladakh under control per force, yet no serious attempt had so far been made for cohesion, solidarity and integration of the people of these regions by the fusion of their distinct stems of culture, ways of life and thoughts.

However, the general picture of a geo - political profile of the Kashmir state clearly depicts that it is not homogeneous but heterogeneous in nature. In heterogeneity actually lies in the multiplicity of its religions, languages, races, regional and sub-regional cultures, ethnic compositions, and over the years growing political and cultural divergence among its various regions viz Jammu, Kashmir and Ladakh.

---

\* Professor of Political Science, University of Jammu, Jammu.

A paper to be presented in seminar on "Democracy, Discontent and Societal Conflicts in South Asia" organised by Deptt. of Political Science, Himachal Pradesh University, Summer Hill, Shimla from 9-11 May, 1997.



## REGIONAL DIMENSIONS OF JAMMU & KASHMIR POLITICS

\* Vidya Bhushan

Like all other princely states in British, the State of Jammu and Kashmir was also an autocratic State and its Dogras had inherited from the Afghan and Sikhs a crude and primitive administration. The machinery of government remained unorganised, arbitrary and medieval for a long time till the internal and external factors and forces compelled the rulers to initiate the process of modernization and democratisation with the accession of Maharaja Pratap Singh to the throne in general and that of the Maharaja Hari Singh in particular. But the full democratisation of the State set-up became inevitable by March 1948 as a consequence of the British withdrawal from the sub-continent, tribal invasion, the Kashmir's accession to the Domain of India and the insistence of the Government of India on the establishment of the popular Government in the State as a pre-condition to accession and military assistance.

However, the general picture of a geo-political profile of the Kashmir State clearly depicts that it is not homogeneous but heterogeneous in nature. In heterogeneity actually lies in the multiplicity of its religions, languages, races, regional and sub-regional cultures, ethnic compositions, and over the years growing political and cultural divergence among its various regions viz Jammu, Kashmir and Ladakh.

---

\*Professor of Political Science, University of Jammu, Jammu



All this resulted in not only sharpening<sup>of</sup> the regional identities, the absence of the inter-regional, inter-communal political party deriving its legitimacy from all the three regions of the State despite an uninterrupted one party dominant rule in the State since independence, helped in developing, in each of the regions its distinct and aggressive political entity but also its divergent political aspirations without caring for the interests of other two regions.

As the geo-political position of the State of J&K is so strategic and delicate the regional diversities in different aspects led to fragmentation and complications of politics of the State as well strengthening the adversaries within and also across the borders touching it.

Unfortunately Kashmiri leaders during their struggle against autocracy, often insisted on calling Maharaja Hari Singh's — (the last dogra ruler) rule in the State as Dogra rule. They forget that Dogra was not only the name of the then ruling family but also the community living in Jammu region. They, thus, alienated the Dogra people. At the same time the popular sentiments in Jammu region, believing the Maharaja as the symbol of their security against the majority community, particularly of Kashmir region, linked their fate and security with the Maharaja. The Dogra nationalists in Jammu region, therefore, believing the Maharaja as a political and cultural symbol, sided with him in his attempt to retain more and more power in pre-independence period. It seemed to Dogra nationalists that prospectus of democracy in the state would be nothing more than being exposed to the whims of a permanent majority (i.e. Kashmir Muslims) of the State and its leadership. They, thus, opposed the very basis of



Kashmir's struggle for freedom. Moreover, the open condemnation of Dogra Maharaja by the Kashmiri leadership, not only created but hardened Jammu distrust against Kashmiri leadership. The Dogras of Jammu, therefore, opposed every political move from the Valley without evaluating its plus and minus points. They, in short, played a negative role through out the period of struggle for freedom from autocracy in Kashmir.

However, the Post-independence politics of Jammu appeared based on to be/both inter-regional and intra-regional conflicts. The Hindu dominated belt of Jammu had found its effective expression in the Hindu dominated party known as The All Jammu And Kashmir Praja Parishad, which first sought the security of Dogras in the retention of the Maharaja as a Constitutional head of the State and then favoured full accession of the State with Indian Union, and opposed the granting of special status to Kashmir. The ouster of Maharaja, and subsequently abolition of monarchy, further deepened the distrust of the Dogras of Jammu against Kashmir leadership. They even opposed the most needed and most radical reforms of the National Conference govt. such as grant of fixity of tenure to the tenants in respect of tenancy holdings, fixation of the maximum rental payable by the tenant to his landlord, providing for summary reinstatement of a tenant, who had been wrongfully ejected; restitution of mortgaged properties; relief / <sup>under</sup> the Distressed Debtors Act, abolition of Jagirs, Mufais and Mukararies; and even the Big Landed Estate Abolition Act of 1950. They under the banner of Praja Parishad - the Principal opposition party, most vocal instrument of its protest and most authentic voice of Jammu-opposed the incorporation of Article 370 in the Indian Constitution.



under which State secured a special status. They raised the slogans Ek Pradhan, Ek Vidhan, and Ek Nishan.

They were, however, not in a mood of raising the voice for rights of Jammu Vis-a-vis that of Kashmir by narrowing down their demands to such a limit they even lost the confidence of Jammu Muslims. The Dogra nationalists were opposed to the convening of the State Constituent Assembly and framing a separate constitution for it. It may not out of place to mention that due to their due to their minority against Indian majority, the Kashmir nationalists, on the other hand, wanted maximum autonomy, stood for limited accession of the State with Indian Union, making Article 370 as a permanent feature of the Indian Constitution. Sheikh Mohammad Abdulla, in his letter to Dr. Mukerjee Dated 4th February, 1953, made it quite clear that so far as Kashmiris were concerned, they had maintained that the special position accorded to the State could alone be the source of a growing unity and closer association between the State and India. He further stressed that if that basis of relationship was unilaterally altered, certain daring consequences were bound to follow. In 1949, Sheikh Abdullah's Cabinet consisted of only one Cabinet Minister from Jammu and though the position (improved marginally under subsequent regimes) the fact remained that the effective political and economic power remained to be vested in Kashmir.

Intra-regional tensions as well as fear of dominance of one region over the other was manifest once again during the elections of Kashmir Constituent Assembly in 1951, the Dogras of Jammu charged that in official policies, assistance to economic development, recruitment and promotion in administration, Jammu was discriminated against even Dr. Karan Singh



(Sadar-e-Riasyat) had also confirmed it.

The Dogra nationalists pleaded for the transfer of more and more powers from Kashmir to Delhi rather than powers for Jammu itself. They even did not thought collectively about the whole of the State of J&K and their place in it. Rather they made anti-Kashmir, anti-Sheikh, anti-autonomy speeches. The regional sentiments, therefore, helped to fragment popular discontent and religious tension wrought <sup>their</sup> / regional cordiality to an end. Meanwhile Kaushak Bakuba - a head lama of Ladakh and a member of constituent Assembly - demanded for a statutory provision for Ladakh in future constitution of the State. A section of Doda district led by A.G. Goni too stressed that Doda district should also be given a status of a separate cultural unit. They demanded that the State to be divided into as many as five cultural units, each with equal status and to enjoy autonomy in the conduct of their internal affairs. Even Dr. Mukerjee in his letter to Sheikh Abdullah dated 4.2.1953 confirmed the sense of insecurity among the Jammu Hindus and in his letter to Pt. Nehru of 12.2.1953 suggested the grant of provincial autonomy to Jammu and Ladakh without the change of boundaries. Pt. Nehru too, in his reply to Mukerjee, appreciated the idea of regional autonomy. Sheikh Abdullah while broadcasting from Radio Kashmir Srinagar on April 17th 1953 also proposed to give autonomy to the different cultural units of the State. The idea seemed to be that a measure of autonomy in their internal affairs would remove the fears of each of these units against the others and would provide a moral, natural and non-communal impetus for a sense of belonging which alone could effectively counter the appeal for cession or independence in the Valley and ~~and~~ integration of the state with the Indian Union in Jammu.



But when the Basic Principal Committee of the Constituent Assembly was instructed to study this idea and make recommendations accordingly, the integrationists of Jammu rejected this idea. Perhaps their policy for the search for security induced them to follow a negative approach and to agitate for highly unified constitution. In the similar manner they opposed Sadar-i-riyasat as the head of the State, a separate emblem and a separate flag for the State. They regarded these as counter to their concept of <sup>a</sup>strong, united centre. Such a stand of Jammu guaranteed reaction in the Valley and provoked some of the Kashmiris to consolidate secessionalist groups and to form

Secessionalist party. B.P. Sharma, therefore rightly pointed out that the role of Jammu and Kashmir in State politics was complementary to each other though unwillingly. Even Mr. Gurcharan Singh Bhatia as early as in 1953 said "National Conference and Praja Parishad represent urges of the aggressive local nationalism of Kashmir and Jammu respectively. The outbursts of the Kashmiri leaders against Jammu help Praja Parishad in mobilising the public support while anti-Kashmiri campaign of the P.P simply provokes and intensifies Kashmiri nationalism of which Sheikh Abdullah is the hero." Balraj Puri while confirming the same view rightly pointed out that the Praja Parishad and the National Conference by polarising the politics of the State helped each other in consolidating their hold on their respective communities.

Suddenly, inflammatory reports spread that Sheikh was thinking to declare Kashmir an independent, the idea of which said to have been mooted by American statesman, Mrs. and Mr. Henderson during their visit to Kashmir in May 1953. The tragedy was that Sheikh Abdullah was misunderstood and his urge



for maximum autonomy for the State was just taken for independence. All along he tried to avoid the disintegration of the State. That was why, in order to accommodate the wishes of the masses of the different regional and cultural units of the State he and his colleagues were working to create a republic, within a republic. Even Sri Amar Kashtriya Prantic Sabha Jammu offered the idea of a republic within the republic and the adoption of State emblem. It also termed the consembly of Kashmir as bogus ~~assembly~~.

Meanwhile with the sudden death of Dr. S.P. Mukerjee in detention, the whole northern India plunged into profound grief and submerged by a kind of Anti-Nehru and Anti-Abdullah wave. P.P. refused to believe that death occurred <sup>in</sup> / natural circumstances and charged Sheikh Abdullah as murderer <sup>in</sup> / spite of the fact he pleaded to be innocent.

However, the first popular elected Sheikh Ministry was dismissed on 8th August 1953 and Sheikh alongwith his other supporters were arrested on 9th August. But Sheikh's political martyrdom made him a popular hero of Kashmir once again. Bakshi, who succeeded Sheikh, while broaddasting from Radio Kashmir on 21st August, 1953 declared, "the rights and privileges that we secure for the State as a whole have to be shared in equal measure by the people of its different parts; the Government would secure equal share of its beneficent activities to the people of various constituent units of the State and to safeguard representation of all regions in every sphere of administration and social life."



Dogra nationalists, on the other hand, seemed to be pacified with the fall of first Sheikh Ministry and his arrest. That was why, its leaders easily fell in the trap of Bakshi, who required their support to consolidate his political position. Pt. Prem Nath Dogra in his letter to Bakshi dated 1.2.1954 reminded him <sup>of</sup> his assurances made to him and pleaded for their fulfilment.

However, the reconstituted Basic Principles Committee submitted report to the Constituent Assembly which was adopted un-animously with minor amendment on 6th February, 1954. Pt. Prem Nath Dogra in his 15 pages memorandum submitted to the President of India on the first April 1954 raised <sup>a</sup> number of objections against the constitutional proposals. Here again he demanded the shift of more and more powers from Kashmir to the Central Government rather than demanding the sharing of the political powers with Kashmir. Bakshi, however, succeeded in creating defection within P.P. by distributing favours to some of its leaders and thus tried to weaken the party.

When the State Constitution was framed, there had been a realization of the inter-regional tensions and a half hearted attempt to meet it had been made by providing for parity between the two regions in the 36 member Legislative Council. But this was never followed to its logical conclusion and Jammu remained very much a political colony of Kashmiri leadership.

Even after the merger of P.P. in Jana Sangh in 1964 the Dogra nationalists of Jammu continued to play a negative role. They were always worried about the shift of more and more powers from Kashmir to Delhi but never thought and fought for Jammu's status within the state. Some of the



individuals and groups even within the All J&K National Conference, though in minority, did try in a submissive manner, for the recognition of Jammu's regional autonomy as well as its equitable share in the power structure of the state as early as in 1949. (e.g. Balraj Puri, Gopal Dutt Mengi, Jotshi Ram Karishan etc) But they were subsequently expelled from the party. The J&K Youth Conference and Friends of New Kashmir, Delhi, the Socialist groups, later on P.S.P., Jammu Autonomy Forum, a group of Jana Sangh workers lead by S. Bachan Singh Panchi, Balraj Puri in J&K State People's Convention in October 1968 also tried to articulate Jammu's regional urges on secular lines. Their main emphasis was that whatever measures of autonomy had been promised to the State within Indian Union should also be conceded to Jammu region. The consensus of the people's convention was that any solution of the State's future should be peaceful, democratic, just and realistic and in keeping in view the interests of all the regions and set at rest a controversy which was one of sources of tensions in the inter-regional relations.

Dr. Karan Singh, in a statement to London Times in May 1968 had proposed linguistic reorganisation of the State and merger of Jammu with adjoining H.P. But the idea was not welcomed and received severe attack from almost the entire political spectrum. J.S. leadership pointed out that by isolating Kashmir, the Muslims would be so preponderant that we would lose it to Pakistan. Whereas Communist leaders thought that "it was a part of sinister American Plot." Mr. Sadiq the then Chief Minister called it an important idea which was fraught with dangerous consequences, and should be resisted with all might.



10

The idea of regional autonomy within the framework of the State was also endorsed by 130 prominent state citizens belonging to all walks of life and communities including politicians, social workers, writers, intellectuals, retired civil servants, doctors and advocates. But almost all the political parties and the centre opposed this idea.

With regrets it is to be pointed out that Jammu protests and sacrifices during all the years got into a defeatist channel. The Dogra nationalist failed to understand that the lack of adequate share in political power was one of the basic problems of Jammu. Jammu needed the safeguards within the State on precisely the same grounds on which Kashmir feels the need within Indian Union.

India too played a negative role. The Indian leadership always thought that Jammu and Ladakh had no other option except India. Whenever, therefore, people of Jammu raised their voice for their rights, they were dubbed by them as communalist. Their eyes always focussed on valley in order to improve their secular image in the World. Whatever concessions were given, <sup>these were</sup> given to the valley and they did not bother much for Jammu and Ladakh.

The Gajendragadkar Commission, appointed by the then State Government, in consultation with Union Govt. on 6th November, 1967 submitted its report on November 29, 1968. The Commission had made a positive contribution to the debate on interregional relations in the two major aspects. Firstly, it stressed the need for recognition of regional identities in various field of governmental activities. Secondly, while recognizing the paramountcy of political aspirations of regions, conceded that even if all the matters were suitably settled down among the regions, there would still be some measures of discontentment unless the Political



aspirations of the different regions of the states were fully satisfied. In order to satisfy the political urges of the regions, the Commission recommended for the establishment of a convention that if Chief Minister belonged to one region, there should be By. Chief Minister belonging to the other. Moreover, the number of Cabinet Minister belonging to the regions - Jammu and Kashmir - should be equal and a full fledged Cabinet Minister from Ladakh be in the State Cabinet. Unfortunately, the State Government still continued its policy of inaction on the report and all its recommendations were not fully implemented.

The atrocities committed by the Pak armies on their Muslim brethren in civil war in east Pakistan, the assistance rendered by India to them and subsequent emergence of Bangladesh as an independent country had a considerable effect on Kashmir politics. It strengthened the secular forces, reduced the bargaining capacity of the Kashmiri leaders to balance India and Pakistan, created popular disillusionment with Pakistan and resurgence of regional patriotism against the appeal of Muslim solidarity. Thus Indo-Pak war of 1971 and emergence of Bangladesh created favourable atmosphere for the negotiations between Kashmiri and Indian leadership to sort out differences.

However, After 22 years the wisdom dawned upon the Indian leaders once again that Sheikh Abdullah was an undisputed leader of the valley and <sup>the</sup> only person who could set at rest most of the controversies about Kashmir accession and others, the negotiation between P.M. and Sheikh Abdullah thus started and resulted into Indira-Sheikh accord of 1975.



For over half a century, till his death Sheikh Abdullah symbolized the aspirations of regional nationalism of Kashmir. He could, therefore, had the capacity to settle the problem of inter-regional relations. In the last phase of his life he reacted sharply even to the slightest provocation from Jammu region. For instance, when Dr. Karan Singh in December 1978 said, "If State Government did not tackle Jammu situation with understanding and sympathy, it would lead to separation of Jammu from Kashmir valley." Sheikh reacted quickly and said, "if the majority of people in Jammu region believed that they could progress by carving out a separate state of Jammu, then there was nothing to stop them and we must part as friends." Even in post Indira-Sheikh accord of 1975 when Sheikh accepted the finality of State accession to India and disbanded plebiscite front, instead of fighting for the right of Jammu, the Congress Party supported Sheikh Abdullah and his regime. But due to the opposition of Jana Sangh and Congress Parties in Jammu he even could not implement the decisions of J&K State People's Convention of 1968 relating to inter-regional relationship.

The recently organised Jammu Mukti Morcha, an organisation of some of newly emerging political elites of Jammu, believes that with the backing of the Central Government the Kashmiri rulers have always manipulated their permanent dominating positions in all walks of life and, thus, denied Jammu its due share in political power and economic development of the State. They, therefore, believe that the only remedy of all ills of inter-regional relations of the State is its trifurcation. This idea, too, is being opposed by both the integrationists, autonomists and fundamentalists parties and groups within as well as outside the State.



While summing up I may say that Kashmiri leadership right from Sheikh Mohammad Abdullah down to Dr. Farooq Abdullah was never serious to share political powers with the other two regions of the State. Even in employment and developmental matters the people of Jammu and Ladakh have been constantly denied their legitimate and due share. The real hunger of the two regions - Jammu and Ladakh, has been the sharing of political power with the Valley. The only remedy of the inter-regional distrust, irritations and tensions is, therefore, the equitable division of political power among the three principal regions of the State through a mechanism acceptable ~~of~~ to the people of each of these regions.

--.ooo.--



(Sadar-e-Riasyat) had also confirmed it.

The Dogra nationalists pleaded for the transfer of more and more powers from Kashmir to Delhi rather than powers for Jammu itself. They even did not thought collectively about the whole of the State of J&K and their place in it. Rather they made anti-Kashmir, anti-Sheikh, anti-autonomy speeches. The regional sentiments, therefore, helped to fragment popular discontent and religious tension wrought <sup>their</sup> regional cordiality to an end. Meanwhile Kaushak Bakuba - a head lama of Ladakh and a member of constituent Assembly - demanded for a statutory provision for Ladakh in future constitution of the State. A section of Doda district led by A.G. Goni too stressed that Doda district should also be given a status of a separate cultural unit. They demanded that the State to be divided into as many as five cultural units, each with equal status and to enjoy autonomy in the conduct of their internal affairs. Even Dr. Mukerjee in his letter to Sheikh Abdullah dated 4.2.1953 confirmed the sense of insecurity among the Jammu Hindus and in his letter to Pt. Nehru of 12.2.1953 suggested the grant of provincial autonomy to Jammu and Ladakh without the change of boundaries. Pt. Nehru too, in his reply to Mukerjee, appreciated the idea of regional autonomy. Sheikh Abdullah while broadcasting from Radio Kashmir Srinagar on April 17th 1953 also proposed to give autonomy to the different cultural units of the State. The idea seemed to be that a measure of autonomy in their internal affairs would remove the fears of each of these units against the others and would provide a moral, natural and non-communal impetus for a sense of belonging which alone could effectively counter the appeal for secession or independence in the Valley and ~~and~~ integration of the state with the Indian Union in Jammu.



(Sadar-e-Risayat) had also confirmed it.

The Dogra nationalists pleaded for the transfer of more and more powers from Kashmir to Delhi rather than powers for Jammu itself. They even did not thought collectively about the whole of the State of J&K and their place in it. Rather they made anti-Kashmir, anti-Sheikh, anti-autonomy speeches. The regional sentiments, therefore, helped to fragment popular discontent and religious tension wrought <sup>their</sup> regional cordiality to an end. Meanwhile Kaushak Bakuba - a head lama of Ladakh and a member of constituent Assembly - demanded for a statutory provision for Ladakh in future constitution of the State. A section of Doda district led by A.G. Goni too stressed that Doda district should also be given a status of a separate cultural unit. They demanded that the State to be divided into as many as five cultural units, each with equal status and to enjoy autonomy in the conduct of their internal affairs. Even Dr. Mukerjee in his letter to Sheikh Abdullah dated 4.2.1953 confirmed the sense of insecurity among the Jammu Hindus and in his letter to Pt. Nehru of 12.2.1953 suggested the grant of provincial autonomy to Jammu and Ladakh without the change of boundaries. Pt. Nehru too, in his reply to Mukerjee, appreciated the idea of regional autonomy. Sheikh Abdullah while broadcasting from Radio Kashmir Srinagar on April 17th 1953 also proposed to give autonomy to the different cultural units of the State. The idea seemed to be that a measure of autonomy in their internal affairs would remove the fears of each of these units against the others and would provide a moral, natural and non-communal impetus for a sense of belonging which alone could effectively counter the appeal for secession or independence in the Valley. ~~and fix~~ integration of the state with the Indian Union in Ja



PERMANENT RESIDENT OF JAMMU AND KASHMIR STATE AND THEIR  
FUNDAMENTAL RIGHTS

Dr. Vidya Bhushan\*

"Fundamental Rights are the modern name for what have been traditionally known as 'natural rights'. They are moral rights which every <sup>human being every</sup> where at all times ought to have simply because of the fact that in contradictions with other things, he is rational and moral. They are the primordial rights necessary for the development of human personality. They are the rights which enable a man to chalk out his own life in the manner he likes best"

- Subha Rao, C.J. in Golaknath case.<sup>1</sup>

Human history records various instances of conflicts between the governed and the government. It also records that gradually the governed asserted themselves against the government and established their rights to freedom and liberty. The Magna Carta (1215) was the first such triumph of the people over the King in the English history.<sup>2</sup>

But the first expression of the popular movements in Kashmir, took the ~~xxx~~ form of resentment against outsiders who were controlling all the ministerial services and enjoying numerous other privileges. A movement 'Kashmir For Kashmiris' was first started during Maharaja Partap Singh's rule and it grew stronger with time. Several Committees and Commissions<sup>3</sup> were appointed to deal with the problem.<sup>4</sup> This had first led to enactment of laws providing preference to "MULKIS" over the outsiders in the state services,<sup>5</sup> then the adoption of the State-Subject definition rules of 1912<sup>6</sup> and ultimately the State Subject rules of 1927.<sup>7</sup>

The new interpretation to the term State-Subject

---

\* M.A., LL.B., B.Ed., Ph.D., ~~xxx~~ Reader in P.G. Department of Political Science, University of Jammu, Jammu (J&K) state.



satisfied only a handful of middle class youngmen who saw in the definition as opportunity to obtain the favour of the government. The masses ... the peasantry .. ... remained untouched. Much hue and cry was raised against the definition of State-Subject. Even Sir, B.J Glancy agreed with a section of opinion which condemned the definition on the ground that even "domicile in the state for a thousand years cannot, according to this definition, qualify a man to become a hereditary state subject"<sup>8</sup> So the discontentment remained a smouldering fire and consequently took the form of a number of gigantic movements in Kashmir till it finally acceded to the Union of India in October, 1947.<sup>9</sup>

Because of its peculiar circumstances, the fathers of the Constitution of India enacted special provisions relating to the State of Jammu & Kashmir which implicitly recognised the right of the State to accord this preference to the permanent residents.<sup>10</sup> The citizenship laws of India thus, did not, apply to the State.<sup>11</sup> The State Subject notification No. 1-L/84 of 1927 was, therefore, the Law of the citizenship of the state.

The Constitution (Application to Jammu and Kashmir) order 1950 did<sup>12</sup> not make any change in this respect. Even the entry 17 of the Union List was modified to read only naturalisation and aliens' in its application to Jammu & Kashmir.<sup>13</sup>

The Delhi Agreement of 1952, however, accepted that "The State legislature would be given power to define and regulate the rights and privileges of its permanent residents of the State specially in regard to acquisition of immovable property, appointments to services in the State and like matters."<sup>14</sup>

After the ratification of State's accession with India in 1954<sup>15</sup>, negotiations were held between the representatives of the two governments and a compromise was reached.<sup>16</sup> The Government of



India, therefore, agreed that the permanent residents of the State could have special rights but they were to have the common Indian citizenship and it was further agreed to substitute the term 'permanent residents' for the term 'state subject' as defined in the notification No. 1-L/84 of 1927.<sup>17</sup>

Thus, by section 2(3) of the Constitution (Application to Jammu & Kashmir) order 1954, part-II of the Union Constitution was made applicable to the State from the 26th day of January, 1954.<sup>18</sup> Moreover, the State Legislature would have the power to make special provisions for the 'permanent residents', so the Legislature in 1954, by inserting sections 5A to & 5F<sup>19</sup> in the Constitution Act 1939 made provision in this respect. These regulations remained in existence till the enforcement of the Kashmir Constitution of 1957.

Part III of Constitution of Jammu & Kashmir deals with the 'permanent residents'.<sup>20</sup> The provisions by and large are the same as of section 5A to 5F of the Constitution Act 1939 and it abolished the laws of separate citizenship.<sup>21</sup>

The constitution left the door open for the subsequent return and settlement in the State of those of & its state subjects who had migrated after the first day of March, 1947, to the territory subsequently comprising Pakistan.<sup>22</sup> This could be done under a permit for settlement or for permanent return' to be issued by the competent authority under the State Legislation. The Constitution expressly leaves to the legislature the power to make any law defining the classes of persons who are or shall be 'permanent residents' of the State.<sup>23</sup>

However, a fundamental right is a legally enforceable right of an individual available against the State. It does not mean merely a right of liberty permissible under the law but also right of liberty which enables an individual to develop his



personality and his faculties and to live his life in his own interests and in the interest of the community as a whole.<sup>24</sup>

The Delhi Agreement of 1952 provided that the fundamental rights, which were contained in the Union Constitution could not be conferred on the residents of the Kashmir State in their entirety.<sup>25</sup> The justification for introducing certain modifications of the fundamental rights as contained in part III of the Indian Constitution to the Kashmir State was admitted<sup>26</sup> in view of:

- a) Socio-politico-economic nature of the freedom movement as reflected ~~to~~ in the New Kashmir, and
- b) the decision of the Kashmir consembly not to award compensation to the expropriated landlords justified on the principle of land to the tillers.

The Constitution (Application to Jammu and Kashmir) order, 1954, vide Sec. 2(4) made by the President under Art, 370, therefore, extended the provisions of Part-III of the Indian Constitution to the State with modifications.<sup>27</sup> Later on Sec. 10 of the Constitution of Jammu & Kashmir promulgated on 26th January, 1957, stipulated:

"The permanent residents of the State shall have all the rights guaranteed to them under the Constitution of India."<sup>28</sup>

The Kashmir Constitution thus, apart from the special rights and privileges of the permanent residents of the State, does not contain any bill of fundamental right. The rights accorded to individual ~~to~~ <sup>in</sup> chapter III of the Indian Constitution are made applicable to the permanent residents of the State but subject to certain important qualification and modifications.<sup>29</sup>

Some of the important modification of fundamental rights as applicable to the permanent residents of the State are discussed here.



The provision of the "Right to Equality" shall be applicable to the State with the modification that in clause(4) of article 15, the reference to Scheduled Tribes be omitted and in clause (3) of article 16 the reference to the State shall be considered as not including a reference to The State of Jammu and Kashmir.<sup>30</sup> The applications of 'Right of freedom' to the State is subject to two limitations. Firstly the right to freedom of assembly, association, movement, residence and of property, (i.e., sub-clause (b) of Art. 19(1)) are subject to the additional limitation according to which the State legislature is empowered to impose restrictions on these freedoms in the interests of the security of the State.<sup>31</sup> The Legislature of the State, is, thus, empowered to determine the circumstances and compulsions which may warrant the imposition of additional restrictions on these freedoms. Secondly, "the reasonable restrictions occurring in clauses (2)-(5) shall be construed as meaning" such restrictions ~~existing in clauses~~ as the State Legislature deems reasonable.<sup>32</sup> Briefly; "as, extended to the State, <sup>reasonable</sup> restriction' on the right conferred by Art. 19 means 'such restrictions' as the State Legislature deems reasonable and not the court as in the rest of the country."<sup>33</sup>

These limitations are transitory in character and under the constitution (Application to Jammu and Kashmir) order 1954, were meant for five years. But successively orders have had their life extended till 1979.<sup>34</sup> The fundamental freedoms in the State, therefore, were thus, at the mercy of the wishes and whims of State legislature as they are not open to judicial review.

The provision relating to protecting in respect of conviction for offence (Art. 20) and protection of life and personal liberty (Art. 21) shall fully apply to the State.<sup>35</sup>

So far as application of the provision of protection



against arrest and detention in certain cases in Kashmir is concerned, "in clauses (4) and (7) of Art. 22, for the word 'Parliament' the word 'Legislature of the State' shall be substituted."<sup>36</sup>

Thus Art. 22<sup>36</sup> relating to the preventive detention will apply, except that the power of the State Legislature instead of Parliament, and the existing law of the State with respect to preventive detention shall continue to be in force until repealed or amended by the Legislature<sup>37</sup> which shall have sole legislative power with respect to preventive detention.<sup>37</sup> It is applicable to the State with another restrictive rider by way of new clause (c) to art. 35 which exempts State laws on preventive detention, past or future, from challenge on the ground of violation of Art. 22.<sup>38</sup> The Presidential order 1954 was made for period of five years, but it has been extended repeatedly, that last time in 1974 for the ensuing five years.<sup>39</sup>

The provisions relating to 'right against exploitation and freedom of religion' shall fully apply to State.<sup>40</sup>

The provisions of the 'right of property' as envisaged by the Constitution of India, are applicable to the State with certain variation and modifications. Firstly, the State legislature is vested with un-restricted power to undertake legislation providing for acquisition of property, the mode and manner of the payment of the compensatory amounts, the acquisition of landed estates, extinguishment and modification of interests in corporations and mining and mineral products, without having to reserve such legislation for the assent of the President.<sup>41</sup> The legislature is also vested with a wide authority to undertake legislation to implement the directive principles of the State Policy envisaged by the Constitution of the State. No such legislation is required to be reserved for the consideration of the President.<sup>42</sup> Secondly, "estates" has been redefined in its applicable to the State, as the land which



is occupied or has been let for agricultural purposes or for the purpose subservient to agriculture or for pastures and which include:

- i) building sites and other structures on such land;
- ii) trees standing on such land;
- iii) forest land wooded waste;
- iv) sites for 'Jandars' and 'gharat'
- iv) areas under field of floating over water;
- vi) Jagirs, inams, maufis, mukararies and other similar grants, excluding building sites near towns or villages and land reserved for municipalities, notified areas or town planning.<sup>43</sup>

So far as the application of the provisions for the 'Constitutional Remedies' in the State is concerned, the Parliament is not vested with the right to empower any other court to exercise jurisdiction in regard to fundamental rights.<sup>44</sup> Instead a special clause is appended to Art. 32 of the Indian Constitution and the High Court of the State is vested with power to exercise jurisdiction for the enforcement of fundamental rights. Moreover, without prejudice to the power conferred on the Supreme Court, High Court of the State is empowered to issue order and writs for the enforcement of these rights.<sup>45</sup> The difference is that, whereas the High Courts of the other States are vested with the power to enforce right under Art. 226 of the Indian Constitution,<sup>46</sup> the Kashmir High Court enjoys the jurisdiction under Art. 32 of the Constitution. The reason is technical rather than substantial. The State Government is organised under the Constitution of the State and the High Court of the State is, a part of a separate Constitutional framework.

Thus Supreme Court and the state High Court shall have the power to issue writs or order for the purpose of the enforcement of fundamental right.<sup>47</sup>



### References:

1. Lakhanpal, P.L.: Two Historic Judgement, International Book, 9821, Nawahganj Delhi-6, p.27, 1972.
2. Tope, Trimbak Krishna: The Constitution of India, Popular Prakashan, Bombay, 1971, p. 34.
3. Report of the Committee appointed to define the term state subject, Jammu & Kashmir Govt. Year unknown, Jammu pp.(preface).

The following Committee & Commissions were appointed to deal with the matter:-

- i) A Committee Consisting of Chief Minister, Home Minister, Revenue Minister, Judge of High Court~~x~~ and Chief Judge of Jammu was appointed in December, 1910.
  - ii) Another Committee consisting of Minister, the judge of High Court, the Governor of Kashmir and Military Secretary to His Highness was appointed by ~~the~~ his Highness on 27th June, 1914.
  - iii) A ten members (both the officials, and non-officials) Committee was constituted in May, 1922.
4. 'Kashmir' issued by General Secretary, All India State People Conference, Bombay, January, 1939, p.6.
  5. Report of the Committee appointed to define the term state subject , op. cit., p.2.
  6. Report of the Committee appointed to define the term state subject. Annexure A, pp. iv & pp. op. cit.

The definition of State subject is as follows:

- 1) All bonafide subjects of His Highness the Maharaja Sahib Bahadur.
- 2) All persons who have tendered a duly executed Rayatnama and have acquired immovable property within the said territory
- 3) All persons who have resided within the state territories for an unlimited time.
- 4) The descendants of the persons mentioned in foregoing clauses.
- 5) The following persons in addition will be considered eligible for appointments reserved for State Subjects:-
  - 1) Any State servant who, thoughnot a state subject has notless than 10 years approved service in the state.



- 2) The children of such state servants, also remoter descendants, provided that the connection of family with the service has not been interrupted without the reason.

7. The State Subject definition Notification No.1-L/84/dated the 20th April, 1927. The definition was:-

"Term State Subject mean and indicates:

Class-I All persons born and residing within the State before the commencement of the reign of His Highness, the late Maharaja Gulab Singh Bahadur, and also persons who settled therein before the commencement of 5 year, 1942 (1885 A.D) and have been permanently residing therein.

Class-II All persons other than these belonging to Class-I who settled within the State before the close of S.year 1968 (1911 A.D.) and have been since permanently residing and acquired immovable property therein.

Class III All persons other than those belonging to Class I & II permanently residing within the State who have acquired under a 'Rayathnama' any immovable property therein or may hereafter acquire such property under an Ilazatnama" and may execute a "Rayatnama after ten years continuous residence therein".

8. Report of Kashmir Constitutional Reforms. Conference Jammu and Kashmir Govt., Jammu 1932, p.7.

9. Das, Durga: Sardar Patels' Correspondence 1945-50, Vol. I, Navajivan Publishing House Ahmeda -bad, 14.

10. India and Kashmir - ~~some~~ Constitutional Aspect, Ministry of Information and Broadcasting J&K Govt. Year not mentioned, p.2

~~11. Anand, Adarsh Sein The: Development of the Constitution of Jammu & Kashmir Faculty Law University of London (unpublished thesis) 1963, p. 260.~~

12. Anand, Adarsh Sein The: Development of the Constitution of J&K Faculty Law Univ. of London (unpublished thesis), 1963, p.260.

12. Constitution of India List I Union List - Seventh Schedule.

13. Ibid.

14. India and Kashmir-Constitution Aspect op. cit. Appendix II (Delhi Agreement)

15. J&K C.A. Deb. Vol. VIII No. IV, p. 48, Dt. 6-2-84.



16. Anand, Adarsh Sein: The Development of the Constitution of Jammu and Kashmir, op. cit., 261.
17. Ibid, p. 262.
18. The Constitution (Application to J&K) order 1954 J&K Govt. Law Department Srinagar 1954, p.11.
19. The Jammu & Kashmir Constitution Ac. No. XIV of 1966(1939) J&K Govt.
20. The Constitution of Jammu & Kashmir, M. P.L. Gupta, Secretary, J&K Constituent Assembly Srinagar, 19th Nov. 1956, pp.3-4.
21. Ibid, sec. 6 pp. 3-4.
22. Ibid, sec. 6 (2)
23. Ibid, sec. 8.
24. Gajendragadkar, P.B. The Constitution of India. Oxford Univ. Press, London, 1969, p.24.
25. India and Kashmir - Constitution Aspect, op. cit., p.20.
26. Ibid, p.25.
27. i) A.G. Noorani's article, 'Kashmir Constitutional Problem'. The Indian Express Delhi 22nd July, 1977, p.4.
28. ii) A.G. Noorani's Article 'Preventive detentive revived' The Indian Express, 23rd Nov. 1977, p.6.
28. The Constitution of Jammu & Kashmir, op. cit., sec. 10, p.4
29. The Constitution (Application to Jammu & Kashmir) Order 1954 ~~1954~~ op. cit. Clause 4.
30. Ibid, p.2.
31. i) Ibid, p.2.
- ii) Basu, D.D.: Commentary on the Constitution of India S.C. Sarkar & Sons, Pvt. Ltd. Calcutta, 4th Ed. 1964, pp. 246-47.
- iii) Basu, D.D.: Union Jurisdiction over Jammu and Kashmir, S.C. Sarkar & Sons Pvt. Ltd. College Square, Calcutta, 12 years un known, pp. 3-4.
32. Constitution (Application to Jammu and Kashmir) order 1954, op. cit., p.2.
33. i) A.G. Noorani's Art 'Kashmir's Constitutional Problem', op.cit. p.4.
- ii) A.G. Noorani's Art, 'Preventive detention revived', op.cit., p.6



34. Ibid.
35. Basu, D.D.: Commentary on the Constitution of India,  
Vol. V, op. cit., p. 247.
36. The Constitution (Application to Jammu & Kashmir) order  
1954, op. cit., p. 4.
37. Basu, D.D.: Commentary on the Constitution of India,  
Vol. V, op. cit., p.247.
38. i) A.G. Noorani's Art. 'Kashmir Constitution Problems,  
op. cit., p.4.  
ii) A.G. Noorani's Art. "Preventive Detention Revised, op.cit.  
p.6.
39. Ibid.
40. The Constitution of India, Eastern Book Company, 34-  
Lal Bhag Lucknow, 1975. pp. 10-11.
41. Basu, D.D. Commentary on the Constitution of India,  
op. cit., Vol. V, 247.
42. Ibid.
43. Ibid.
44. Ibid., p.248
45. Ibid.
46. Ibid.
49. Basu D.D.: Commentary on the Constitution of India, op.cit.,  
p. 248.



A STUDY OF  
KASHMIR'S CONSTITUTIONAL RELATIONSHIP WITH THE  
CENTRE IN ITS TRUE PSYCHO-POLITICO-HISTORICAL  
PERSPECTIVE

By: Dr. Vidya Bhushan\*

In the lap of the Himalayas lies the world famous Valley of Kashmir, surrounded by mountains where the frisking cascades, bubbling springs, sprawling verdant fields and saffron belts have remained unchanged despite invasions of the Moghuls, Tartars, Huns, Pathans, Sikhs and others.

Kashmir whose borders touch Pakistan, India, Afghanistan, Russia and China has enthralled poets, emperors, warriors, sages and saints by its talismanic charms which nature has bestowed on it in abundance.

It is not only because of art and culture, natural beauty and panoramic landscapes that Kashmir is famous in the world but it is well-known because of its geographical, military and political importance in this whole region, particularly in the sub-continent. With all this, its civilization, history and unique style of the people's living have been its greatness. <sup>People</sup> And people of the region have, from the very inception, remained desirous of maintaining their individuality and freedom. Whenever any foreign aggressor, after crossing its gorgeous <sup>a</sup> revines and mountain passes, tried to subjugate her people, the cross-section of the Valley's citizens did not lay <sup>down</sup> their arms easily.

---

\* Head, P.G. Department of Political Science,  
University of Jammu, Jammu.



With the withdrawal of the British power from the Indian Sub-continent, transfer of the powers and the partition of the country created a set of new circumstances and situation, the state of Jammu and Kashmir acceded to the Indian Union. The offer of the accession was made by the Maharaja and supported by the leadership of the All J&K National Conference.

However, Jammu and Kashmir state, which is an integral part of Indian Union, enjoys a special status by virtue of Art. 370 of the Indian Constitution. But the Kashmir's constitutional relations with the Union of India is still an incomplete story of adjustment of respective sphere of power between federal polity and a constituent unit. It actually reveals the hazards of national building in the developing world where plurality of religion, language, race and culture, geographical factors and uneven political developments create strains and stresses in the adjustment of relations.

The process of integration and constitutional adjustment, which had been adopted in regard to the other Indian states, was not at all followed in the case of Kashmir. The constitutional relationship between state and central govt. continued to be governed by the provision of the Kashmir's instrument of Accession of 26th October 1947. When the constitution of India was being completed, it was deemed necessary to make provisions in Indian constitution regarding the status of Kashmir state. Certain



broad principles were agreed upon by the centre and state leadership in a meeting held in Delhi in May, 1949. The position crystallised finally, when the special provision 306-A drafted to be placed before Consenbly of India. This draft act was revised three times just to accommodate the view points of both the parties. The provisions giving a special status to the Kashmir state, therefore, were finally embodied in the Art. 370 of the Indian Constitution. It was a step to fulfil the long cherished desire of Kashmir leaders with regard to State autonomy by limiting the powers of Union President and parliament. Thus only Art.1 and 370 of the Indian Constitution were to apply to Kashmir.

During the first phase of the democractic rule in the state, which started with the state's accession to Indian Union way back in Oct. 1947 and terminated with the Sheikh's dismissal and arrest in August, 19<sup>5</sup>3, the National Conference leadership demanded concessions and maximum autonomy in order to protect their separate Kashmiri nationalism. Such a move was against the demand of the integrationist group particularly in Jammu region which was agitating for full integration of the state with the Indian Union. The attempts were also made to build such a structure which would meet the demands of both the groups - the autonomists and integrationists. Thus, Delhi Agreement of July 1952 was signed between the State and Central leaders to build a structure of the constitutional relationship between Kashmir and the centre. But building structure ( i.e. Art.



370 and Delhi Agreement 1952 ) was more in favour of state autonomy. <sup>and</sup> ~~And~~ some of the controversial issues, jurisdiction of Supreme court, functional integration, election commissioner, Controller <sup>and</sup> Auditor<sup>y</sup> General, Emergency powers of the President <sup>were</sup> left for further discussion. But when this model was put to practical tests, it cracked because of the motivational differences and the result was the crisis of 1953.

In the wake of the constitutional crisis the aspirations of the larger part of the people in the valley concentrated on having larger autonomy in the state's relationship with the Indian Union. The secessionists and the integrationists treaded on two extreme paths. In the result, the effort of the Kashmir leadership was to rally and placate the diverse elements in the state to an endorsement of the larger state autonomy. The Kashmiri leadership heard the slogans of the Jammu integrationists and wanted to assure the people in the valley that larger autonomy of the state would not be sacrificed at any cost and they were ready to have a constitutional set-up in which all major cultural units could have a larger measure of internal autonomy.

In the second phase which comprises approximately a decade of Bakshi Ghulam Mohd's premiership (1953-63), the Kashmiri leadership tended to move from larger autonomy to limited autonomy to stabilise its constitutional relationship with Indian Union. To realise this in concrete terms, the then Kashmir leaders, embarked



upon a cautious and partial integration beyond the position already <sup>agreed</sup> reached upon till the time of the dismissal of Sheikh Abdullah. The Kashmir constitution was finally enacted in Nov. 1956 and enforced on 26th January, 1957 by giving affect to this policy.

The will to chisel a distinctive constitutional personality of the State became flabby. The constitution took increasingly the shape of a carbon copy of the Indian constitution with certain separate features to accommodate the political culture of Kashmir and local sentiments. But complete stability was not achieved even after all this.

The third phase mainly related to Mr. Sadiq's years as Chief Minister beginning early in 1964 and down to his death in December 1971. For certain reasons Mr. Sadiq thought the time right for a progressive integration of the state with the Union and many steps, including the extension of the State government, were taken in this direction. At a later stage, he was shrewd enough to realise that he was losing his popularity with the people in the valley largely on account of the progressive integration he had embarked upon. The alienation of some was due to the reaction of the autonomists and of course, of the secessionists. Shortly after, he took in hand a policy of liberalization vis-a-vis parties and placation of Sheikh Abdullallah and his followers in an effort to rally the general support to his administration.

The fourth phase commenced when the <sup>a</sup>mentle of the leadership fell on Syed Mir Qaism on the death of Sadiq in December, 1971. Syed Mir Qaism,



before he became the Chief Minister was an untiring critic of the policy of liberalization although he said little against the progressive integration. However, once in office as Chief Minister, he went further than Sadiq and offered to vacate his office in favour of a come-back on the part of the Sheikh, following the Indira-Sheikh Delhi accord after protracted and prolonged negotiations by the emissaries of the two leaders. The accord stressed the basic element of the autonomy of the state, and the finality of Art. 370 of the Union constitution. Sheikh had made no secret of the fact that he wanted the perpetual retention of the special status of the state in the Indian Union. The accord, therefore, once again entrenched the Kashmir special status within the Indian Union and prepared the way for Sheikh's return to the constitutional position. Sheikh once again urged for the largest possible state autonomy, stressed the finality of the accession and the special status of the state as provided under Art. 370 of the constitution of India. In any case, with the return of the Sheikh to constitutional position, the wheel seemed to have gone full circle and state leadership appeared to be back to the policy of the first phase i.e. to the urge for the largest possible state autonomy, stressing the finality of the accession and the special status of the state as provided under Art. 370 of the Constitution of India and reflected further in the Indo-Kashmir Agreement of 1952 as well as in the Indira-Sheikh Accord of 1975.



Dr. Farooq Abdullah, the present Chief Minister, more or less, seems to follow the policy of his father so far as centre-state relations are concerned.

A look at the working of Jammu and Kashmir state's relations with the Indian dominion makes a clean sweep of the lurking fear in the mind of some political parties and readers that its special status may prove dangerous for the national integrity and solidarity. Article I of the Indian Constitution applicable to the state without any modification is an assurance in this direction. The conception that incorporation of article 370 may create a 'Republic within an Republic' is not correct. It is a constitutional guarantee and a psychological satisfaction for Kashmiris and Kashmiri leaders. The reality is that Jammu and Kashmir state is also subject to the same pulls and pressures to which other Indian states are. It is believed (Jana Sangha) that urge for autonomy will spell the disintegration of India and that other states will also press for autonomy. But there is already a trend going on in the states to ask for more and more autonomy for themselves (Tamil Nadu, Assam, West Bengal, Punjab Akalies). The trend may be described as from universalism to that of particularism or from a unitarian pattern of federalism to pluralistic pattern of ~~a~~ federalism.

In case of Jammu and Kashmir state, the circumstances were more special and difficult ~~but~~ and the aspiration for more autonomy within the framework of the Indian political system is not altogether



singular and unique. A look at the speeches made by the members in the Indian Constitution Assembly makes it clear that there were states and communities which <sup>had</sup> ~~has~~ reservations about the strong centre and mode of appointment of Governor and his discretionary powers. For example, relatively backward states like Assam and Orissa were in favour of weak centre. As <sup>opposed</sup> ~~proposed~~ to this, Madras was in favour of a strong centre. States, where Muslims were in a minority, favoured strong centre while ~~as~~ the Sikhs who constituted a minority in the country as a whole but a sizable number in Punjab were in favour of weak centre. Similarly, the members of the Brahmin caste were more favourable to a highly centralized federation than the members from other castes.

So Jammu and Kashmir state is not the only exception. It is, however, otherwise different. The quantum of difference may be unique, but there is no principle of difference. There is a tacit but a mistaken assumption of uniformity in the status of all the constituent units of the Indian Union. A close examination of the Indian Constitution will reveal that this assumption is mistaken or atleast exaggerated, and the assertion made so often that fathers of our constitution were almost unanimous in establishing a strong centre is not correct.

There are special provisions governing certain groups of people such as minorities, scheduled castes and tribes, and the administration of certain



areas. The fifth schedule for example provides for differential treatment for scheduled tribes and special dispensation for the administration and control of scheduled areas. Some of these provisions have the effect of diminishing the powers of the state government under whose territorial jurisdiction these areas fall. The sixth schedule again provides for another set of special considerations to govern the administration of tribal areas of Ar<sup>a</sup>runchal, Meghalaya<sup>x</sup> and Mizoram. There are still other special provisions governing Assam and Nagaland.

The so-called Kashmir problem was, and is, in fact, involved into an issue for "more autonomy". The demand for autonomy and retention of Art. 370 mainly comes from the valley because Kashmiris have not yet developed the psychological feeling of integrative identification with India which is very much there in case of other Indian races. Kashmiris and their leaders are looking at Art. 370 as a permanent guarantee for the preservation of their own nationalism.

More recently, stress is being placed on the state autonomy by different states of the Union<sup>x</sup> including Kashmir. In necessary, article 370 may be made to act as a wall of demarcation of the powers of the centre and the state. The <sup>a</sup>fact that <sup>e</sup>concurrence of the state government is a condition precedent to the extension of the centre's field to the state beyond the three subjects surrendered to the centre in the Instrument of the State's accession, it is a sound democratic basis of the state's partnership in the Indian federal setup.



I may conclude that the working of centre-state relations in India shows that to have a uniform pattern of relations is not a must for the working of federalism. India being a plural and politically uneven society the centre state relations have to be of a varying nature. Throughout the constitutional development there was an attempt in the direction of uniformity. But complete uniformity and stability were not possible because of the dynamic nature of the society and tensions between the centre and the states are not peculiar to any particular political system. They have existed in all federal states. The federal political systems established in the developing areas have not always proved stable and successful. Some have disintegrated, others have been <sup>n</sup>converted into a unitary political union<sup>s</sup>. The federal solution has not been always accepted as the appropriate one to begin with. In <sup>Guyana</sup>Guyana, <sup>Ceylon</sup>Ceylon, <sup>Sudan</sup>Sudan and <sup>Belgium</sup>Belgium <sup>Congo</sup>Congo, despite the urgent advocacy of federal political structure by certain groups, unitary government was chosen right at the outset. Revolt by East Bengal against Pakistan and the secession of Singapore from Malaysian federation are the two cases near at home. In India too centre-state relations are subject to tensions and revisions especially in case of J&K state. But the demand for greater and greater state autonomy here has amounted neither to revolt nor to secession from the Indian federation. This is due to the skilful administration and the long sighted political acumen of the leaders and rulers concerned. Demands are being proportionately made and responded in order to maintain the <sup>n</sup>equilibrium.



## POLITICO-HISTORICAL PROFILE OF JAMMU AND KASHMIR STATE

### — A BRIEF APPRAISAL

Kashmir can claim the distinction of being the only region of India which possesses an uninterrupted series of an ancient Sanskrit written records of its history, reaching back beyond the period of the Muhammadan conquest and deserving the name of real chronicles.<sup>1</sup> Kashmir has, therefore, a Sanskrit chronicle tradition which is unique in Hindu India as reminiscent of chronicles of the Muslim world or medieval Europe.<sup>2</sup> The earliest extent and most important of these chronicles is the Rajatarangini (i.e. stream of Kings) compiled by Kalhana in about A.D. 1150. Kalhana had given an account of the region upto A.D. 1006, whereas Jonaraja upto A.D. 1420, Pandit Srivara upto A.D. 1489 and Pradya Bhatt upto A.D. 1586 when Kashmir was annexed by the Great Mughal Akbar.<sup>3</sup> Since then the history and chronicles of Kashmir have been written by many Sanskrit and Persian scholars as well as by many western travellers.<sup>4</sup> From the period of the first settlement in Kashmir to the reign of Gonada, the first Prince, the region was governed by a succession of fifty two kings of the Kaurava dynasty which ruled over it for a period of about 1266 years.<sup>5</sup>

In ancient India, Kashmir had an honoured place. The chronicles speak of the glorious king of Kashmir named Gonanda, who was worshipped by the region which Kalhana lights up and which the tossing Ganga clothes with soft garments.<sup>6</sup>



Kashmir was a part of the empire of Ashoka who laid the foundation of city of Srinagar.<sup>7</sup> He is said to have introduced Buddhism in Kashmir and sent about five thousand Buddhist disciples for its propagation. Many Buddhist monasteries, therefore, came up in Kashmir during his time.<sup>8</sup> He also introduced the cultivation of Saffron in the Valley and took many steps to improve agriculture.<sup>9</sup> The Buddhist faith had, however, received an impetus at the hands of the Indo-Scythian rulers, particularly Kanishka, Huska and Juska.<sup>10</sup> The Third Buddhist Council was held in Kashmir under Kanishka's patronage and from that time Kashmir became the centre of Mahayana from where missionaries carried the doctrine to distant China, Central Asia and Tibet.<sup>11</sup> But all the subsequent rulers were not supporters of Buddhism. As a result of the rise of Shiva cult and philosophy, Buddhism though linger on for some years, but was finally replaced by the traditional Brahminism.<sup>12</sup> Tolera turi, however, been the key note of religious policy even in those remote years and the people of different religious faith lived together amicably.<sup>13</sup> After the commencement of the Christian era, the valley was invaded by Tartars.<sup>14</sup> In the sixth century A.D. came the white Huns.<sup>15</sup> The two other notable kings in Kashmir were Pravarasena II and Lalitaditya. Whereas Pravarasena-II reigned about 700 A.D. and built his capital on the site of the present Srinagar. Lalitaditya, being the most famous of the later Hindu kings ruled over Kashmir in the middle of the eighth century and distinguished himself by his successful campaigns in



Central and Western India and Central Asia.<sup>16</sup> He is said to have subdued many kings in India in a tour of conquest for 12 years and then turned his attention to Central Asia and returned victorious via Tibet.<sup>17</sup> It is recorded that he was a patron of art and culture and carried out many public works and built many temples including Martanda Temple. Mahmud of Ghazni said to have attempted to invade Kashmir, but failed to effect entry.<sup>18</sup>

The subsequent political history of Kashmir for some hundreds of years was a succession of violent changes in which dynasty succeeded dynasty and some adventurer or other by his military talent acquired power.<sup>19</sup>

Towards the middle of the 14th century the Muslim rule was established over the valley. This religion had found a fertile soil to grow and expand because the people had been groaning under the misrule of the later Hindu rulers, when trade had languished and agriculture was at standstill.<sup>20</sup>

The most notable of Muslim rulers were Sultan Zain-ul-Abdin (1420-70 A.D.) who had worked zealously for the greater benefit of greater number and said to have introduced the vocations like Carpet-Weaving, paper-making, paper-mache, Silk breeding, horticulture, stone-culting, stone polishing, window-cutting, bottle-making, gold-beating, shawl-weaving etc. in Kashmir. He was generous and brave and earned the goodwill of Hindus who had been persecuted



earlier. He encouraged <sup>21</sup> learning, fine arts and poly-technics. <sup>22</sup> He had also invited to Kashmir skilled craftsmen viz. the weavers, embroiders, wood-carvers and makers of brassware, carpets and papier-mache from Turkey, Mecca and Egypt, who were the progenitors of skilled craftsmen of today's Kashmir. The death of this enlightened Sultan left Kashmir Valley a prey to the old anarchical influence and it was not until the conquest of the territory by Emperor Akbar towards the end of 16th century (in 1586), <sup>23</sup> that a region of order was established. <sup>24</sup> Akbar had visited Kashmir thrice and during his last visit he got constructed the fort on the Hari Parbat Hill to attract the people who had fled the valley because of the atrocities committed by Chaks. He also laid down a sound revenue system through his revenue Minister Todar Mal.

Jahangir and Shah Jahan were very fond of Kashmir. They built stately mansions, planted chinars and laid out various pleasure gardens around the Dal Lake and elsewhere. <sup>25</sup> The Mughal rule lasted until the middle of the 18th century when in consequence of the decay of the imperial power, the governor of the State became independent of Delhi. <sup>26</sup>

Thereafter it fell under Afghan despotism and the people were oppressed by a succession of governors from Kabul, each more cruel, than his predecessor. Their rapacity was inflicted on the people irrespective of religion or caste, and Hindus and Muslims were alike the victims of their cruel rule. It was said of them that they thought no more of cutting off heads than of plucking flowers. When



their yoke became insupportable, the Kashmiris turned for aid to Ranjit Singh whose rising star was then attracting the attention of India. As a consequence of this appeal the Sikhs sent an army to Kashmir in 1814, the advance being made over the Pir Panjal. The expedition was a failure and nothing further was done until 1819 when Ranjit Singh's best general, Mir Diwan Chand, accompanied by Gulab Singh of Jammu, invaded Kashmir and after driving out the Afghan representative, Jabbar Khan, established the Sikh rule. A terrible famine ravaged the valley in the early years of the Sikh regime. The Sikh rule had been similar to that of the Mughal. The governors for Kashmir were appointed from Lahore and as many as ten governors were sent there during the Sikh rule. They used to govern according to their own whims and caprices. Main Singh was the most popular Sikh Governor and the grateful memories of his exertions to repair still linger among the people. He was unfortunately assassinated by mutinous troops.<sup>27</sup>

While Kashmir was passing through the later vicissitudes in its history a new power was growing in influence on the environs of the Valley. This was the authority of the Dogra Prince, Gulab Singh, one of Ranjit Singh's favourite Lieutenants. Created by Raja of Jammu in 1820 for services rendered to the Sikh cause, Gulab Singh by force of character, speedily organised his territory on fire lines. Eventually he established a complete domination over nearly



all the regions between Kashmir and Punjab. Ladakh and Baltistan were also brought under his control with the result that Gulab Singh was practically master of all the territory immediately surrounding Kashmir. <sup>28</sup> ~~23~~

When war broke out between the British and the Sikhs, Gulab Singh refrained from taking sides and in 1846, after the battle of Sobraon, he acted the part of a mediator between the British and the Sikhs. The treaties concluded as a result of this intervention gave to the British, as equivalent of an indemnity of ten million rupees, the hill country between the river Beas and the Indus. Out of this ceded territory the British transferred to Gulab Singh, for sum of seven and a half million rupees, all the hilly and mountainous country situated to the east of the Indus and the West of the Ravi by signing the treaty of Amritsar on 16th March, 1846. He tried to consolidate peace in the otherwise deplorable conditions then prevailing in Jammu region. In February 1856, Gulab Singh gave up his throne in favour of his son Ranbir Singh. Gulab Singh died in 1857 and in 1860, his son and successor, Ranbir Singh sent a well-equipped expedition against the mutinous chief of Gilgit and the adjoining territories, and succeeded in finally establishing the Dogra hold on this outpost. <sup>29</sup> ~~24~~

In 1870 Maharaja Ranbir Singh sent his troops to Hanza and Nagar and obtained their vassalage. Later, when the Afghan war was in the offing and the Britishers were



anxious to isolate Afghanistan and eliminate any possible threat from Chitral, Maharaja Ranbir Singh was encouraged to send an expedition to Chitral and obtain its vassalage. Negotiations were opened between the army officers of the Maharaja and the Mehtar of Chitral which eventually resulted in a treaty between Aman-ul-Malik, the Mehtar and the Maharaja. According to the treaty the Mehtar accepted the suzerainty of the Maharaja and in token thereof agreed to pay annually a small tribute.<sup>30-25</sup>

It was thus towards the end of the 19th century that the Jammu and Kashmir state came into shape, the Maharaja's authority extending from Chitral in the North to Kathua in the South and Aksai Chin in the East and Kohala in the West. The state thus became the most important frontier region of India.<sup>31-26</sup>

Ranbir Singh was an excellent ruler, and a man of learning, culture and sharp intelligence. The close of his reign was darkened by the calamitous famine of 1877-79, which decimated the Valley. On the death of Ranbir Singh, in 1885 his eldest son, Pratap Singh, ascended the throne.<sup>32-27</sup>

Maharaja Pratap Singh had a tough time with the British Indian Government. In order to secure direct control over the State, they appointed a Resident who wielded unlimited powers over the administration.



It was only towards the end of his long reign of forty years that some semblance of power was restored to him.<sup>33</sup>

During his regime education was modernised. Several schools and two colleges - one in Srinagar and another in Jammu were set up. Hospitals and dispensaries were opened. The valley was linked with the rest of the Country by two cart roads - one between Srinagar and Rawalpindi and another between Srinagar and Jammu.<sup>34</sup>

Thus, with the spread of education and faster communications between the State and the rest of India, there began a ferment among the people and they became conscious of their economic and political stagnation.<sup>35</sup>

In the early twenties of this century, this discontent surfaced with political demands voiced by a few leaders in the State. They were no doubt influenced by the freedom movement launched by the Indian National Congress under the leadership of Mahatma Gandhi. But the abortive agitation was ruthlessly suppressed by the Maharaja who, however, passed away in 1925.<sup>36</sup>

During the reign of Maharaja Hari Singh, who succeeded his uncle Maharaja Pratap Singh in 1925. The political consciousness had dawned on the entire length and breadth of the Sub-continent. As a result a continuous



struggle for freedom and democratisation of the administration in the state also started. It had its origin in the widespread discontentment among the Muslim masses who constituted 78% of the total population of the state and 49% of the population in the Kashmir Valley.<sup>37</sup> ~~32~~ but had very inadequate representation in the state services as well as in the economic and industrial life of the state.<sup>38</sup> ~~33~~

The bulk of the Muslim population were tillers, labourers and artisans - classes which were an excellent target of exploitation by the richer sections of the society.<sup>39</sup> ~~34~~

Agrarian discontent and paucity of employment opportunities were thus the motivating force for the Muslim masses to agitate against the Dogra regime in the State. The process of presentation of demands and their half-hearted consideration by the government continued for some years, but without any tangible results coming out of it. It was in 1930 that a new organisation called the Reading Room Party was formed by a few Muslim graduates for discussing the problems of Muslim masses.<sup>40</sup> ~~35~~

Meanwhile Sheikh Mohammed Abdullah, with post-graduate degree in Chemistry from Muslim University, Aligarh, and who was appointed as a teacher,<sup>41</sup> ~~36~~ left his job after a few months and in collaboration with his friends founded the All Jammu and Kashmir Muslim Conference of which he himself became President.<sup>42</sup> ~~37~~



The party leadership demanded the establishment of a full responsible government in the State. The Maharaja, however, could not make any headway towards grant of responsible government to the people of the State. The political and economic situation was deteriorating fast and it was not, therefore, difficult for Sheikh Mohammad Abdullah and his small band of devoted workers to launch a mass movement against the Maharaja's autocratic rule. This was met with force - wholesale arrests, firing by the police and military and levy of punitive fines. But ultimately he had to yield and set up a legislative assembly with very limited legislative and executive powers.<sup>43</sup> This did not satisfy the leaders. Because of Sheikh Abdullah's nationalist outlook, his desire to fight for the entire state's freedom and people's fundamental right and to get the cooperation of all the progressive forces in the state, the Muslim Conference was converted into National Conference in 1939.<sup>44</sup> The National Conference adopted a programme of building up New Kashmir in 1944.<sup>45</sup> Sheikh declared that the future and independence of India inextricably linked with the future and independence of J&K State.

The struggle entered into a crucial stage when the famous Quit Kashmir Movement for the transfer of power to the people was launched by the All J&K National Conference in May, 1946.<sup>46</sup> The state bureaucracy was bewildered at this



new slogan and full of vengeance decided to crush the movement. In spite of reign of terror, arrest, prosecution and deaths, the movement was on the verge of success when the British rulers decided to partition British India by dividing Indian subcontinent into the new dominions India and Pakistan in August 1947, and making all Princely states independent and advising the princes to accede to one or the other of the new dominions, keeping in view the considerations of geographical contiguity. For most of the British Indian States, there was no question of option, their geographical position, economic needs and historical and cultural affiliations made their decision a foregone conclusion. Some of the states, which thought of going against these forces, were soon compelled by their people to make the correct choice.

The choice before J&K state was a difficult one because partition of India made Kashmir state geographically contiguous to both Bharat and Pakistan, besides Tibet, Sinking, USSR and Afghanistan. Moreover, the state was a Muslim majority state with a Hindu ruler inclined towards India. A majority of the inhabitants of the state was Muslim by religion. Pakistan ruler thought that state must accede to Pakistan. The Maharaja, therefore, could not decide the question of accession to either of the dominions rather entered into standstill agreement with Pakistan.



to get more time. Indian government however refused to enter the agreement unless it was approved by the people of the state first. Mr. Jinnah was in a dilemma and believed as the National Conference leadership was openly against his doctrine of two nations theory and looking more towards India, the people of the state would not accede to Pakistan. Pakistan authorities then used all sorts of tactics including communal incitement and infiltration of armed personnel to force the State accession to Pakistan but failed. Mr. Jinnah then became impatient and lost his balance as a result a massive attack in form of tribal invasion on defenceless Kashmir was launched on 25th October, 1947 to force its outright annexation. Meanwhile the Working Committee of the National Conference decided that the future of the State lay with India, approached the Government of India for help and whole-heartedly supported the accession of the state by the Maharaja to the Indian Union. The Maharaja was thus forced to accede India on 26th October, 1947.

On October 27, 1947, the Maharaja had appointed the popular leader of the state Sheikh Mohammad Abdullah of the National Conference, Chief Emergency Officer. On 5th October, 1948 a regular government headed by Sheikh Mohammad Abdullah was formed. Article 370 of the Indian Constitution, however, conferred a special status on the State of Jammu and Kashmir and it was thus the only state of the Indian Union which got the right to frame its own Constitution.



When the cease-fire which was brought about with the good offices of the United Nations in 1949, Pakistan refused to honour international agreement to vacate its aggression, the people of the State set-up on 31st October, 1951, Seventy-five members Constituent Assembly elected on the basis of universal adult franchise. The Consenbly of Kashmir not only abolished the insitution of monarchy, ratified the accession of the state with India but adopted unanimously the new Constitution for the state in November, 1956. The Constitution comprised 158 sections and five schedules. Sections 1,2,3,4,5,6,7,8 and 158 pertaining to the title of the Constitution, definition, relationship of the State with the Union of India, territory of the State, extent of the executive and legislative powers of the state, definition of permanent residents, came into force on the 17th, November, 1956 and remaining sections on the 26th of January, 1957.

...



## THE EMERGENCE OF THE LEBLIST AND RIGHTS MOVEMENTS AND THEIR PARTIES POLITICS IN THE STATE.

The concept of movement within a Political and Social context is said to have been emerged from the experience of the French Revolution of 1789 and from the continuing struggle against the established authority in different countries in Europe. It is an organised attempt on the part of a section of a society to bring about either partial or total change in it through collective mobilization based on ideology. Whenever a movement develops a high degree of formal organisation, it ceases to be a movement and becomes a part of the internationalised system losing its innovative features.

For over the last several centuries, the organisation and conduct of political have been complicated by the development of political parties and specific institutions for legislation, administration and adjudication. In earlier days government was simple because the society was simple as it had static social structures, agrarian economy and largely self-sufficient community of citizens. When the society of today has become highly urbanized, economy is geared up for industrial production and many citizens turn to government for the services, big governments are organised. As a result the opportunities for political conflict have increased along with the economic development and created new values, attitudes, interests and proliferation of ideologies reflects these fundamental changes in our way of life and in the organisation of our society and government.



However, of all the political ideas that have gone into shaping our modern World none has gained wider usage or wielded greater influences than the Left- Right concept. of political relationship. In fact this concept visualises our political World as a spectrum stretching between two polar extremes The extremes left denoting revolutionary radicalism and extreme right devoting revolutionary reactionism. The various political schools of thought are, therefore, reanged between the colours of spectrum according to the intensity of their tendencies.<sup>3</sup>



## The Formation of the All Jammu and Kashmir Plebiscite Front and its Politics.

The motivational variations arising out of varied political considerations and failure of the Centre-State leadership at various levels to reconcile the various claims and aspirations led to the Constitutional crisis of August 1953. As a result the first popularly elected Ministry of Sheikh Abdullah was dismissed. He and his prominent supporter Mr. M.A.Beg and few others were arrested under the Public Security Act and Bakshi Ghulam Mohd. took over as the new premier of the state. All this termed as an attack on the sub-nationalism of Kashmir by the Indian government and murder of democracy in Kashmir. It, therefore, evoked a violent reaction in the valley in which about ten thousand persons including one hundred women were also arrested. The movement though was crushed by the new regime yet it caused feelings of hatred against India.

Mr. M.A.Beg, who was later on released from detention in November 1954 because of ill health, however, conceived an idea for floating a new party, not ~~xxx~~ only to meet the new challenge against Kashmir's right of self-determination but also to mobilise public opinion against Bakshi government. Thus, M.A.Beg, alongwith six sitting members of the state legislature and one member of Parliament from the State left the All J&K National Conference and founded the All J&K Plebiscite Front on August 9, 1955 i.e., two years after the crisis of August 1953. On the same day a special session of



the party was convened in the lawns of the residential house of Khwaja Ali Shah, which was attended by thousands of supporters of the party and Mr. Beg and Mr. G.H.Hamdani were unanimously elected as president and the Secretary of the party respectively. An Executive Committee consisted of sixteen members was also elected. The following were the members elected to the Executive Committee :-

- 1) Mirza Mohammad Afzal Beg (President);
- 2) Sofi Mohammad Akbar (Vice-President);
- 3) Kh.Abdul Gani Gooni (Vice-President);
- 4) Kh.Mohi-ud-Din Hamdani (General Secretary);
- 5) Kh.Sadar-ud-Din Mujahid (Secretary);
- 6) Kh.Ghulam Rasool Kochak (Secretary);
- 7) Haji Mohammad Ishaq (Treasurer);
- 8) Kh.Ali Shah, Srinagar (Member);
- 9) Sheikh Mohammad Mansoor, Kulgam (Member);
- 10) Mohammad Subhan Bhatt, Pulwama (Member);
- 11) Pir Mohammad Afzal Makdoomi, Srinagar (Member);
- 12) Hakim Habib-Ullah, Sopore (Member);
- 13) Ghulam Nabi Wani, Budgam (Member);
- 14) Pir Mohammad Maqbool Yelgami, (Member)
- 15) Ghulam Qadir Hawabaz, Baramulla (Member) and
- 16) Ghulam Mohammad Dar, Banihal (Member)

Soon after the formation of the Executive Committee, the elections of the district and tehsil committees were held.



While declaring that "No power on the Earth can deprive the people of Kashmir the right of Self-determination", Mr. M.A.Beg read out the manifesto of the party which was signed by M.A.Beg; Sofi Mohd Akbar (M.P); Hakim M Habib-Ullah (M.L.A); Pear Mohd Maqbool Yelgeni (Ex.M.L.A); Syed Alaudin Gillani (M.L.A); Ghulam Nabi Wani (M.L.A); Malik Ghulam Hussain (Ex.M.L.A); Sader-ud-Din Mujahid (Editor Khalid); Haji Mohammad Ishaq (Vice-Chairman, All India Shia Conference); and Kh.Abdul Gani Gooni (M.L.A).

The Plebiscite Front also said to have the blessings of Sheikh Mohd Abdullah. Although he never formally joined the party, yet it help the party to become a popular organisation in Kashmir. As the time passed on it became the most effective and influential party in the valley as well as in Muslim belt of Jammu region. In view of its popularity the party was banned in the beginning, but subsequently the ban was lifted.

The next party convention was convened at Islamabad on September 10, 1955 in which Mr. M.A.Beg - the President of the party issued the policy statement. On 6th October, 1955 the Front convened a two - days Convention at Sopore which was attended by thousand of people and confirmed Mr. Beg's statement of 10th September, 1955 contained :



"The Plebiscite Front is sure that the world opinion cannot be misled for long. Those people who love freedom and democracy and struggle for human rights will stand by us and give moral support to four hundred thousand people of Kashmir in the attainment for their objectives. The only crime of Kashmiris is that they demand the right to express their opinion. Since their beloved leader has been in prison for three years without any trial, the Sheikh's release is a must, because in this period of darkness marked by troubles, and afflictions, hardships and oppression; tyranny and despotism, he is the only hope of light for them. It is the selfless sacrifices of the Sheikh which inspired the people with valour, courage and determination to fight their enemy without any fear. The statement added that the conditions in the state had been so crucially created for the votaries of the Plebiscite Front that it almost became criminal for them to raise any voice against the oppression exercised by the Government - Even then the people were determined to face the hardships with full strength and march forward to their destination".

Basically, the Plebiscite Front was organised by Mirza Mohammad Afzal Beg when Sheikh Mohammad Abdullah was in prison. The Front was organised, however, by experienced politicians who had a remarkable role and record of their political life during the freedom struggle.



in the State. The important personalities involved in the Plebiscite Front politics were "Mirza Mohammad Afzal Beg, Sofi Mohammad Akbar of Sopore, Kh. Abdul Gani Cooni, Kh. Mohi-ud-Din Hamadano, Kah. Ghulam Rasool Kochak, Haji Mohammad Ishag, Kh. Ali Shah, Sheikh Mohammad Mansoor, Mohammad Subhan Bhatt, Pir Mohammad Afzal Makdoomi, Habibullah Hakim, Sopore, Ghulam Nabi Wani, Pir Maqbool Yelgami, Handwara, Ghulam Qadir Hawabaz, Ghulam Mohammad Dar, Bannihal, Mirza Ghulam Mohammad Beg, Ghulam Nabi Kochak, Doctor Abdul Majid (Islamabad), Pir Abdul Gani, Kh. Ghulam Mohammad Shah, Kh. Sader-ud-Din Mujahid, Mohammad Ramzan Karnai, Kh. Abdul Ahad (Advocate Sopore), Ghulam Hassan Inqilabi, Ghulam Ahmad Sofi, Ghulam Mohammad Bhat and Ghulam Mohammad Sheikh (Doda, Jammu). With these and many other politicians and political workers, the Plebiscite Front had declared itself to be a non-communal, secular and non-violent organisation".

#### Party Organisational Structure

On the basis of the Plebiscite Front Constitution 1955, which was subsequently amended in 1965, the party organisational structure comprised of :-

1. The Primary Committee or Mohalla or Gam (Village) Committee. Its activities were confined to Mohalla or the village. The members to this committee were directly elected by the residents of that locality.



2. Next Primary Committee was called Halqa Committee and its activities and functions were confined to the area covered by a patwar Halqa. Its members were indirectly elected by all the elected members and office bearers of all the primary units within the Halqa. Halqa Committees existed also in town municipal areas. All the members and office bearers of the committees operating in a Halqa were empowered to elect the delegates who would elect delegates and these delegates elected the Tehsil President, District and Provincial Committees, which function in these administrative units. The Presidents of these committees had power of nominating the office bearers and members of these committees. The party had one General Council whose members were elected delegates, one fourth from every tehsil from all over the State.

Besides, there were one President; two Vice-Presidents; one General Secretary; two Secretaries; a Treasurer; and Accountant; members of the working committee; who formed the party's ~~sukt~~ central council; delegates; the Tehsil, the District, the Provincial and the State level committees; and the primary or basic members of the party.



The party had a ~~xxxx~~ centralized organisational structure. Its all the committees used to function under the discipline and general control of the working committee.

However, the Front's Finance Committee, comprising of the President, two Vice-Presidents and the Treasurer, used to control the receipt and expenditure of all the funds of the party and audit the accounts of all the subordinate committees.

But the primary or basic membership of the party was open only to those who believed that the state's accession to India was only temporary and provisional and that the issue of accession had to be decided by its people through a Plebiscite.

#### Party Ideology

The ideology of the Plebiscite Front was evident from the very name, aims and objectives of the party. The party leadership believed that as the Instrument of Accession of the Jammu And Kashmir State with the Indian Dominion signed by the Maharaja on October 27, 1947 was accepted by Lord Mountbatten on the assurance that it should be settled by a reference to the people, Kashmir State was a disputed territory. The State's accession was Indian union was, therefore, conditional and temporary and could only be settled in accordance



with the wishes of the people of the state. The party leadership stressed that since the issue of Kashmir accession had never been referred to the people, the dispute stood unresolved. The leadership further stressed that as Pt. Nehru, the then Prime Minister of India cabled a similar assurance to the British Prime Minister, the right of self-determination of the Kashmir people was, therefore, recognised by both nationally and internationally and even under the U.N. Security Council resolutions passed in March, 1948.

As the party's first and foremost contention was to secure to the people of Kashmir their sacred right of self-determination, it was the corner stone of party ideology. The party also believed in the ideology of constitutionalism, non-violence and peaceful cooperation as methods for the attainment of its objective and aims. Its leadership had also a faith in the ideology of secularism and democracy. While discarding the role of religion in politics and stressing that there was no place for communalism in its politics and political programme, they declared that "communal hatred and disharmony is repugnant to any ideology". Moreover, the party never favoured the disintegration of the state.

Another important ideological ingredient of the party was its belief in human rights and liberties.



The party, therefore, strongly opposed oppressive laws such as Preventive Detention Act, The Enemy Agent Ordinance, The Defence Rules etc., which could be used on any pretext for curbing human liberties and civil rights for the people.

#### Support base of the Party

The Plebiscite Front gained strength with the passage of time and became the most effective and influential party in the valley as well as in muslim belt of Jammu region. It generally attracted the elements having affinity with the principle of Kashmir sub-nationalism represented by Sheikh Mohammad Abdullah, those having ideological affinity with the Two Nation Theory and were not prepared to sacrifice their religion and ideology at the alter of good relationship with India and who cherished the idea of independent Kashmir.

The Front had made an attempt to infiltrate into the trade union sphere and managed to control the Silk Factory Workers Union, Boatmen's Unions and the students union such as youngmen's League.

The Front had also supporting bases in some of the foreign countries i.e., Kashmiri's settled in U.K., U.S.A., and in other countries. The party also got monetary as well as moral support from European and some middle eastern countries.



### Strategy and Tactics

In order to mobilize the public opinion in support of its basic demand for right of self-determination, 'The imparting political education to the masses' was the common and overall strategy adopted by the Front. The party, therefore, organised processions and public meetings in which its leadership demanded withdrawal of Indian army from the state and of the holding of Plebiscite under United Nations auspices. An under-ground war council was also set up to conduct the passive, non-violent movement. The demonstrations by women marked a special feature of the movement for Plebiscite. With a view to educate the masses politically, huge literature was published and distributed sacred religious places such as Dargah-i-Hazratbal etc., where the Front could find a readymade and easy audience for propagation of its aims, objectives and programmes, were exploited. The party organised strikes hartals, street processions, demonstrations and slogan shouting also.

Another strategy adopted by the Front was to prepare people for non-cooperation with the governments of the state and the centre. The party tried to highlight the failures of the governments in various spheres and understate the benefits to the people from various measures taken by the governments to ameliorate their lot. In other words, the Front's endeavour was to underrate the state's links with India and to stress the importance of her like with Pakistan.



### The Front Electoral Performance

In the initial stage the Front condemned the contesting of Elections and criticised those who wanted to enter the election arena. But later on apprehending cracks in the party, it decided to contest elections to prove to the world how popular the party was in Kashmir. The party, therefore, decided to enter 1972 Election. However, the nomination papers of the Front candidates were rejected on the ground they were anti-national. But a few candidates like Mirza Arif Beg, Mufti Mehraj Din and Aya Syed Afzal Jalali enjoying the Front support contested the election. The party even extended its support to the candidates of Jamat-e-Islamia. But the massive victory of the Front candidates in the civic polls had given legitimacy to its stand. The Plebiscite Front was hereby three months old when M.A. Beg - the President of the party alongwith several top leaders of the party were arrested on 19th November 1955. In spite of this a two-days convention of the party workers was convened at Anantnag in the last week of November 1955 which was attended by more than fifty thousands people. Several resolutions were passed urging the government of India to implement the U.N.O. resolutions on Kashmir and to honour her solemn pledges of holding free and impartial plebiscite in Kashmir for the democratic settlement of the accession question. Between 19th November, 1955 and 19th September, 1956, four Presidents including



M.A. Beg of the party were arrested. The party then decided to boycott the proceedings of the Kashmir consembly. Thousands telegrams were then sent to the President of the consembly by the party to desist from Constitution making. The Front challenged the competence of the consembly to frame the constitution on the plea that following the dismissal and the arrest of Sheikh Mohammad Abdullah as well as many of his colleagues, the consembly had lost its representative character. As such, in their absence and in the absence of 25 members assigned to the territorial constituencies under the Pak-occupied Kashmir, no decision regarding the future of the state and finality of the issues could be decided by it. Protest meetings were held where the members of the party reiterated their faith in the right of self-determination. Although the party also boycotted the Assembly Election of 1957, yet it played an important role as an opposition from outside. The Front, however, became the party more of Pro-Pakistan elements rather than being a secular party as was claimed earlier. There was a regular contacts between the Plebiscite Front leadership and the Pak Agencies. According to B.N. Malik the incriminating letters were recovered from Mirza Afzal Beg. However, at the time of his arrest in 1956. He also ascertained that a regular communication was being maintained between the war council of Pakistan and Plebiscite Front leaders by means couriers.

The Front had very sagaciously chosen its strategy to internationalise Kashmir issue and to bring pressure



upon the Government of India to concede to its demand for Plebiscite. Its leadership, therefore, appealed to conscience of the world statemen, politicians and the head of the Governments for extending their supports to the demand of the Kashmiris for Plebiscite as agreed to by the various resolutions of the Security Council. Memorandums were submitted to the Commonwealth Prime Minister's Conference held in London on September 9, 1962 to the President of U.S.A. on his visit to India in 1959 and to Frank Graham, the special U.N. representative for Kashmir on his visit to Indian sub-continent in January, 1958 urging them to see that the security council resolution for Plebiscite in Kashmir be implemented with further delay. Similar appeals were made to the U.N. Secretary General, The President of the U.N.O. General Assembly and the Muslim Countries to help in the solution of the Kashmir dispute.

The Holy relic episode of 1963 provided an-other opportunity to the Plebiscite Front to further extend ~~their~~ its influence in the valley. The party forged an alliance with the Awami Action Committee of Maulvi Farooq to give a lead to the people of the valley in such an hour of grave crisis. The noneymoon between the two parties, however, broke down after the recovery of the holy relic. The Awami Action Committee then stole some of the thunderour of the Plebiscite Front. It then could not claim to be sole representative of the Muslims of the valley.



Pakistan's failure to capture the state with the help of large scale infiltration in 1965, however, gave rise to extremism in the valley. The then newly emerging youth leaders accused the Plebiscite Front of inaction when Pakistan was trying to liberate Kashmir. On October 1, 1965 during meeting at Hazaratbal Shrine several students captured the dias and blamed the leadership of Front for being stooges of the Indian Government.

However, after the historic/Indira-Sheikh Accord of 1975, the J&K Plebiscite Front, was considered to be irrelevant and was therefore, dissolved the Party was then redesignated as the All J&K National Conference.

Thus, the politics of the All Jammu and Kashmir Plebiscite Front right from its inception till 1975, when Sheikh Mohammad Abdullah assumed political power, seemed simply to be a protest Movement. After 1975 till his death, Sheikh Mohd Abdullah simply harped on the ~~same~~ tune of state autonomy and the issues of state accession and the right of self-determination of the Kashmiris were relegated to the background. One may, therefore conclude that the politics of Plebiscite was played simply for political bargaining and the bargain was astutely structured in the shape of Indira-Sheikh Accord 1975.



1. Bhushan, Vidya : State politics and Govt: Jammu and Kashmir OP. Cit P-192.
2. Bhushan, Vidya : The Evolution of Democratic Institution Indian Polity.  
Ess Ess Publishers New Delhi, 1989, P 137.
3. Saraf, Mohammad : Kashmiri's Fight For Freedom  
Yusaf. Ferozsons Lahore, 1975 P-124
4. Jan, Asifa : Protest Movements and Democratic Culture  
Ph.D. Thesis University of Kashmir  
1994, P-153.
5. Fazil, Manzoor : Kashmir Government And Politics  
Gulshan Publishers, Srinagar, 1982, P-47
6. Gupta, Jyoti : Jammu And Kashmir  
Bhushan Dass.
7. Jan, Asifa : Protest Movement And Democratic Culture  
OP-Cit P-156
8. Ibid P-158
9. Ibid
10. Ibid P-156
11. Ibid
12. Fazil, Manzoor : Kashmir Government and Politics  
OP. Cit P-79
13. Bhushan, Vidya : The Evolution of Democratic Institution  
of in Indian Polity  
OP. Cit. P-137
14. Ibid P-138
15. Jan, Asifa : Protest Movement and Democratic  
Culture  
OP.Cit. P-158
16. Ibid P-159



17 Ibid P-160

18 The Constitution of the Plebiscite Front, 1965  
Articles VI(A&B), VIII (C), VII (D) and XII (A)

19 Jan, Asifa : Protest Movement And Democratic Culture  
OP. Cit. P-161

20 Ibid

21 Ibid

22 Ibid P-162

23 Saraf, Mohammad Yusaf : Kashmir's Fight For Freedom  
OP. Cit. Vol-II P-1045

24 Ibid

25 Jan, Asifa : Protest Movement And Democratic Culture  
OP. Cit. P-173

26 Ibid

27 Ibid

28 Ibid P-176

29 Ibid

30 Bhushan, Vidya : The Evolution of Democratic Institution  
in Indian Polity.  
OP. Cit. P-138

31 Shawal,  
Mohi-ud-Din : Kashmir Conspiracy case, Srinagar  
Srinagar 1960, P-50

32 Jan, Asifa : Protest Movement And Democratic Culture  
OP. Cit. PP 164-65.

33 Ibid

34 Ibid



- 35 Saraf, : : Kashmir's Fight For Freedom  
Mohammad Yusaf. OP. Cit. Vol-II, P-1214
- 36 Jan, Asifa : : Protest Movement And Democratic Culture  
OP. Cit. P-166
- 37 Ibid P-167
- 38 Singh, Narinder : : Party Politics in the State of Jammu  
And Kashmir  
OP. Cit. P-121
- 39 National Herald (New Delhi) March 26, 1972 P6.
- 40 The Indian Express (New Delhi) Feb. 16, 1972.
- 41 Singh, Narinder : : Party Politics in the State of  
Jammu and Kashmir.  
OP. Cit. P-122.
- 42 Ibid P-111
- 43 Ibid P-112
- 44 Ibid
- 45 Jan, Asifa : : Protest Movement And Democratic Culture  
OP. Cit. P-170
- 46 Malik, B.N. : : My Years with Nehru  
Allied Publishers New Delhi 1971  
PP-64-65.
- 47 Ibid
- 48 Jan, Asifa : : Protest Movement And Democratic Culture  
OP. P-171
- 49 Ibid



50 Ibid

51 Roop Krishan Buti article on Plebiscite Front in  
Political Science Review No. 1-4, 1971.

52 Singh, Narinder : Party Politics in the State of Jammu  
And Kashmir : A case Study Rightist  
Party.  
OP. Cit. P-117

53 The Tribune (Ambala) Oct. 21, 1965 P-2.

54 Jan, Asifa : Protest Movement And Democratic Culture  
OP. Cit. P-183.



## STATE ADMINISTRATION IN JAMMU AND KASHMIR .....

\* Dr. Vidhya Bhushan\*

Between the snow-adorned barrier of the Himalayas and the earth-coloured and sun-scorched plains of the Punjab live four million Kashmiris.<sup>1</sup> This part of the country, Jammu and Kashmir state, which is generally known as Kashmir state; covers an area of 84,471 sq. miles (2,22,800 sq. km) and is situated in the extreme north between Latitude  $32^{\circ} 32'.15''$  and  $37^{\circ} 5'$  North and Longitude  $72^{\circ} 35'$  and  $80^{\circ} 20'$  East<sup>2</sup>. The physiography of Kashmir in relation to peninsula of India is economically most important, in as much as the great reservoirs, from which is drawn the water that fertilizes the vast plains of the land of five rivers, are contained herein. Here are born infant streams which feed the Indus, the Jhelum, the Chenab the Ravi and to great extent the Sutlej also.<sup>3</sup>

It is not merely geographical expression in the North-west of the vast sub-continent of India, famed for its beauty and natural wealth, but Kashmir is a land strategically situated and a connecting link for many great empires. Its borders touching, as they do, the territories of Russia, China, India, Pakistan, Tibet and Afghanistan, have an international significance.<sup>4</sup> Being a playground of Asia, Kashmir has been the victim of foreign invasion and intrigues for centuries. The people had been mercilessly exploited by their federal and imperialist masters.

M.A., LL.B., B.Ed., Ph.D., Reader, P.G.D. of Political Science, University of Jammu, Jammu-180001.



It occupies a strategic position from military <sup>2</sup> standpoint and that of foreign affairs. Planes based on the soil of Kashmir can be used for bombing any area in Asia."<sup>5</sup> Nations interested in 'Big Power' struggle can see Kashmir primarily as the pivotal centre of military strategy in this part of the world."<sup>6</sup> This is why it had been a constant source of irritation between Dogra Rulers and the Govt. of India before 1947 and India and Pakistan since, 1947. It has become a pawn in the game of International politics. Thus for instance it has given rise to the fast developing collaboration of Pakistan and China, on one hand, and the Pak collaboration in the global plans of American Policy and military strategy on the other.

Kashmir being comprised of three main regions - Jammu, Kashmir and Ladakh, is a multilingual, multicultural (with three dominant languages - Dogri, Kashmiri and Ladakhi) and is also the home of various races. The Jammu <sup>7</sup> province, with an area more than double of Kashmir Province, is the home of the Dogras - a hardy people divided into several castes and sects, both Hindu and Muslims, belonging to the same race.<sup>8</sup> They speak dogri language - a mixture of Sanskrit, Punjabi and Persian words, deriving its own <sup>from</sup> from the Indi-Aryan branch of Sanskrit.<sup>9</sup> The people of Kashmir valley, being an ancient race with complexions varying from olive to a ruddy and fair hue, are full of fun and fond of amusement. The over-whelming majority of the people profess Muslim- religion, which was first introduced in the Thirteenth century and established its hold in 18th century. They speak Kashmiri language.



~~Further to the east is the land of Ladakh or 'Little Tibet'.~~

Further to the east is the land of Ladakh or 'Little Tibet'. Its people are a mixture of Mongolian and Aryan races and are cheerful, wilful, and not quarrelsome unless under narcotics like 'Chang'. Simplicity and clumsiness are in a measure their chief characteristics. They are Buddhists, the followers of the Dalai Lama<sup>a</sup> of Tibet and speak Ladakhi language. In short, geographically, demographically culturally, linguistically, racially and ethnically the Kashmir state is not a homogenous<sup>e</sup> but heterogeneous unit.

ec is  
people



## REFERENCES

1. Zutshi, J.N: Kashmir's Journey To Freedom  
The Kashmir Bureau of Information S-Prithvi Raj  
Road, New Delhi P-1
2. Zutshi, J.N: A portrait of population  
J&K census of India, 1971 P-11
3. Imperial Gazetteer of India. The Indian Empire, vol 1  
Oxford 1907 P-16.
4. Kaul, P.N, and Dhar, K.L: Kashmiri Speakers.  
Luzac and Co Russel Street, London  
1950 P-2.
5. The Hindustan Times. Feb. 18th, 1953.
6. The Free Press Journal May, 23th, 1953.
7. Census of India (Jammu & Kashmir) vol XX 1911, P-201
8. Census of India - 1891 vol. XXVIII, The Jammu & Kashmir  
1893, Lahore P-4.
9. Vital speeches and documents of the Day. vol no. XXII,  
XXIII and XXIV no. 15 Dec. 1 and 15, 1963 Special Issue,  
Kashmir P-74.
10. Key To Kashmir: A Lal Bahadur publication, Srinagar  
1957, P-37.
11. Census of India 1891, P-3
12. Jammu & Kashmir
12. Bamzai, P.N. K: Jammu And Kashmir  
publications Division, Ministry of Information  
And Broadcasting Govt of India, 1973. P-9
13. Ibid P-10
14. Jammu And Kashmir Administration Report.  
S. 2010. 6/13th April 1953 - 12 April 1954 P-39, P-3



15. Bamzai, P.N.K.: Jammu And Kashmir  
op.cit. P-10
16. Ibid.
17. Ibid.
18. Administration Report of Jammu & Kashmir  
1st April 1955 to 31st March 1956 pp-3-4.
19. Ibid.
20. Bamzai, P.N.K.: Jammu & Kashmir  
op.cit. pp-3-4.
21. Administration Report of Jammu & Kashmir  
S. 2010 (i.e. 13th April 1953 to 12th April 1954) pp.3-4.
22. Ibid.
23. Bamzai, P.N.K.: Jammu And Kashmir  
op.cit. p.10
24. Ibid. P-11
25. Administration Report of Jammu & Kashmir  
For the year 1958-1959 (S. 2015) pp.3-4
26. Bamzai - P.N.K.: This is Kashmir  
op.cit. p-11
27. Administration Report of Jammu & Kashmir  
For the year 1959 - 1960 pp-iii-iv
28. Bamzai, P.N.K.: This is Kashmir  
op.cit. P-11
29. Ibid. Pp.11-12
30. Ibid. P-12
31. Ibid
32. Ibid
33. Ibid P-13
34. Ibid P-13
35. Ibid
36. Ibid
37. Ibid
38. Ibid.
39. Handa, R.L.: History of Freedom Struggle in princely States  
Central News Agency, New Delhi P 248.



2.1. The Head of the State in pre-independence era — The Ruler.

The Dogra rulers inherited a kingdom which had already seen many masters. With a few so-litary instances almost all exploited the country. During the time of the Afgans and Sikhs dynastic rules, particularly the state had a crude and primitive administration. As the first two Dogra rulers were busy in consolidating their newly acquired kingdom. The machinery of government remained unorganised, arbitrary and medieval. The process of modernisation of the state administration which was initiated by Maharaja Ranbir Singh, accelerated during the reign of Praja Partap Singh, completed by adopting the Kashmir constitution by the state assembly in Nov. 1956 which was enforced on 26th January 1957.

The Maharaja was the Executive head of the state in pre-independence era. He was the ~~ex~~ fountain from which all authority, executive legislative and justicial flowed out. In other words the final authority in all matters rested with him. His inherent powers had not been affected by the introduction of constitutional Reforms. Section 3 of the Regulation 1 of 1991 and Section 5 of the Constitution Act of 1996 declared that all powers, executive, legislative and judicial were and had always been inherented and possessed and retained by His Highness and nothing contained any other enactments should affect. or be deemed to affect the right and prerogative of His Highness to make laws, and to issue proclmation, orders, and ordinam es by virtue of his inherent authority.



The territories then vested in His Highness was governed by and in the name of His Highness and all rights, authority and jurisdiction which appertained or was incidental to the Government of such territories were exercisable by His Highness except in so far as might be otherwise provided by or under the above mentioned ~~xxxxxx~~ Act or as might be otherwise directed by His Highness.

In practice, however, the Ruler did not exercised the authority of the State in person. He had delegated his powers to a council of Ministers which he himself had nominated. That did not mean that the Ruler was shorn of all powers. All powers, in fact, belonged to him but he had entrusted his Ministers with the exercise of those powers under his supervision and control. He could dismiss any Minister at any time and could fill his place by nomination some one else to this post. But, as no person could satisfactorily carry on the functions of a Minister if he feared ~~interference~~ interference from the Ruler in every matter the latter allowed the Council of Ministers a free hand in the administration of the State as long as he approved the general policy followed by the Council. As a matter of fact, he seldom interfered with their work. It may, however, be born in mind that the Ruler was in no way prevented from taking personal interest in the affairs of the State, and council lay down the law in any matter.

The long and short of the matter was that



though all authority legally rested with the Ruler he did not generally exercised it personally, as a matter of expediency. His influence, however, was neveraltogether absent from the administration of the State.

The British Government as the Paramount power did not generally interfered with the internal affairs of the State. There was only one example of direct interference- the temporary deposition of Maharaja Pratap Singh. The Paramountcy of the British Government could not, therefore, be said to constitute any real limitation on the powers of the Ruler as far as the internal administration of the State was concerned. Though the Paramount power, through the then Government of India was always in a position to exert considerable influence over the policies followed in any Indian State.

It should be borne in mind that the Army, and the Hazur Departments have not been put in the charge of the Council of Ministers. These used to be in the charge of the Minister-in-Waiting, also known as the Hazur Minister, who was directly responsible to His Highness and was not a member of Council or the Praja Sabha. Matters relating to the departments in his charge were immune from any criticism in the Praja Sabha. The post from any criticism in the abolished in the beginning of 1940. The army had been added to the portfolio of the Prime Minister but for matters relating to it was directly responsible to His Highness and these matters were still outside the purview of the Council and the Praja Sabha.



2.2 The Head of the state in post-independence  
Era — The Sadra-i-Raysat.

The other departments which were under the charge of Hazur Ministers had been placed under the ~~Mirza~~ Military Secretary, whose post had been created for the purpose of these departments only and who was under the direct control and supervision of His Highness. As before, the Council and the Praja Sabha had no power with regard to these departments.

One of the functions which the consembly of Kashmir had been called upon to perform was to decide the future of the ruling dynasity. While refering to the future of the ruling dynasty, Sheikh Abdullah traced out briefly the events which led to the conclusion of the Treat of Amritsar 1846 and the transfer of the people and the territory for 75 lakhs of rupees to Maharaja Gulab Singh. He also refered to the suppression coming in the wake of the Dogra ruler after-wards. With the withdrawal of the paramount power, he pointed out, the rights of the Indian Princes had ceased and sovereignty had rverted to the people. He stressed that National Conference was convinced that the institution of monarchy was incompatible with the spirit and need of modern times and a constitutional head of the State would have to be chosed to exercise the functions the assembly might choose to entrust to him.

The Basic principles Committee was, ~~was that~~, appointed by the consembly in its very first session i.e. on the 7th Nov. 1951 and reconstituted on 20th October 1953, was to evolve the basic principles



for ~~framing~~ a constitution for the state keeping in view the borad outcome of the policy statement made by Shikh Mohammad Abdulla on 5th Nov. 1952 as well as Delhi agreement of 1952. The committee felt that the time had come when a final decision should be taken in regard to the institution of hereditary rulership. After the deliberations and careful thought, the Committee ~~was~~ of the opinion that the institution of monarchy ~~was~~ a relic of the feudal system which was based on mass exploitation of the resources of a country and the labour of its people for the self-aggrandisement of an individual and a limited class of his associates. As such, the Committee considers ~~that~~ system opposed to the aspirations of the people for an untrammelled democratic order, the spirit of which is surging throughout all countries of the world. It strongly ~~feels~~ that the continuance of a monarchical system would be the imposition of an anachronism particularly when these monarchies ~~were~~ disappearing fast in many parts of the world under the compelling forces of history and social change.

It <sup>was</sup> ~~is~~ the considered view of the Committee that sovereignty <sup>shall</sup> ~~does~~ not must reside in the people and that all power and authority must flow from the expression of their free will. The State and its Head, respectively, symbolised this sovereignty and its centre of gravity. The Head of the State represented the authority vested in him by the people for the maintenance of their rights. The promotion of this



vital principle of constitutional progress ~~makes~~ *made* it imperative that this symbol of State power should be subject to the vote of the people. The Committee therefore strongly ~~feels~~ *feels* that, consistent with the democratic aspirations of the people of the State, the office of Head of the State should be based upon the elective principle and not upon the principle of heredity. This would afford opportunities to all citizens to rise to the highest point of authority and position, with the support and confidence of the people. The spirit of equality and fraternity required by democracy demanded that in no sphere of State activity should a citizen be ~~debarred~~ from participating in the progress of his country and the advancement of its ideals and traditions. It is clear that the hereditary principle in the appointment to any office of power curtails the people's choice and to that extent, restricts their right to elect suitable person of outstanding merit and personal qualities to that position. The process of democratisation will not be complete till the highest office of the State is thrown open to the humblest of the land and in this manner, the Head of the State will be repository of the unbounded respect, confidence and esteem of the people.

In view of these considerations the Committee ~~feels~~ *feels* that there must be a sense of finality about the decisions in regard to this fundamental issue. Accordingly, the Committee recommended that:

- (a) the form of the future constitution of Jammu and Kashmir shall be wholly democratic.
- (b) the institution of hereditary Rulership shall be terminated. &
- (c) the office of the Head of the State

*shall be elective.*



The consideration of the report by the consembly continued for three days. All the twenty-nine members who took part in the deliberations, supported the proposed recommendations. In their brief speeches they referred to the events which led to the establishment of momarachies in the world, the Divine Right of Kings, the people's revolt against them and their stress that the sovereignty rested with the people and not with the individual. While pointing out the amount of suffering of the peopel under the Dogra rule and tracing out the history of the freedom struggle in Kashmirm, they stressed that wherever monarchies had existed in the world, they had been the playground of imperialism exploitation and internal misrule. It had always been the symbol of imperialism to disrupt the people's movement. The report was then adopted unanimously.



The delegation of Kashmir leaders, which included Mirza-Mohd. Afzal Beg - Revenue Minister, Mr. Shamiri-Constitutional adviser, Mr. D.P.Dhar- Dy. Home Minister and Maluna Mohd Syeeda - the then member parliament met Prime Minister Pt. Jawharlal Nehru, Mr. K. Gopalaswami Ayyanger, the then defence minister and Dr. K.N. Katju, Minister for state separately in Delhi on 14th June 1952 and discussed the situation arising from the decision of the Kashmir consembly to do away with the ruling dynasty and to have an elected head of the state. Their letters proceeded in the direction of finding a solution which could accommodate the decision of the Kashmir consembly with the minimum of amendment to the Indian constitution.

What was the need for an elected head of the state, what would be relationship between the president of India and the head of the state? What would be designation of the head of the state and what would be his functions, would the President of India appoint the head of the state or merely would recognise who ever was elected so by the Kashmir, <sup>were</sup> The question which were under discussion.

The Indian express Madras daily on 14th June 1952 had raised number of constitutional complications beset the acceptance by the government of India of the resolution passed by the Kashmir consembly in favour of the election of the head of the state and removal of Maharaja. These were as under:

First, under the Indian constitution then there was no provision for an elected Rajpramukh or governor.



Secondly, the Maharaja of the J&K had been recognised by the constitution as part and parcel of the government of the state under Article 370.

Thirdly, it was only after the Maharaja had signed the instrument of accession that India was legally entitled to send armed forces to the State during the critical days of Octo. 1947. If the Maharaja would co, constitutional, critics pointed out, the whole case of Kashmic accession to India would become invalid until, at last, the issue of final accession had been decided.

Fourthly, under the then Art. 366 sub clause 21 of the Indian Constitution, Rajapramukh would, mean, in relation to the state of Jammu and Kashmir or the state of Mysore. The person, who for that time was recognized by the President as the Maharaja of that state.

Thus for all the constitutional and legal purpose, the Maharaja was the rajpramukh of the J&K state.

It was informed that Kashmir consembly had taken the first step necessary for the state to get out of the provision of Art. 370 i.e. the president of India could modify or even nullify the provisions of that Article after considering the terms of the resolutions urging the abolition of monarchy and wanting the head of the state to be elected. The



President, thus, might also appoint an elected head as the Rajpramukh for purposes of Article 366.

It was suggested that before the government of India made such a recommendation to the President, not only constitutional but also political issues involved would have to be carefully examined. It was also pointed out that perhaps an amendment of the constitution might be necessary. Mr. N.C. Chatterjee, the then President of Hindu Mahaya Sabha, pointed out that the decision of Kashmir constituent assembly to liquidate the regime of the Maharaj and to terminate hereditary rulership in Kashmir and to have a President as the head of the State would raise constitutional issues of grave importance. It would have far reaching repercussions on the position of the Rajpramukhs or rulers of other part B. States. The Bhatiya Jana Sangh, had therefore, passed a resolution on 15th June 1952, requesting the government of India not to take any decision in regard to the Kashmir constituent assembly's decision to abolish hereditary rulership without fully consulting parliament and giving an opportunity to the people of Jammu and Kashmir state to express their wishes. The Committee further decided to observe June 29, 1952 as 'Kashmir Day' by holding public meetings and demonstrations all over India in support of the party stand on Kashmir.

When the question of abolition of headship of the state was raised at the meeting of the congress parliamentary party on 14th June 1952,



one member urged that if in the case of Kashmir, the government of India could agree to terminate the ruling dynasty, the same principle must be applied to the Rajpramukh of all part B states, including the Nizam of Hyderabad.

But it was well known that very few top ranking congress leaders had any deep sympathy for the princes.

Pt. Jawaharlal Nehru had also announced in the House of People that the Govt. of India and Kashmir government representatives had agreed that the head of the state in Kashmir would be the person recognised by the President on the recommendation of the legislature of the State. He further pointed out that it was the stat legislature to decide the process of election and normally the head of the state would hold office for a term of five years.

Réferring to the Ksshmir consembly decision to abolish hereditary ruler, Dr. S.P.Mookerjee, the then opposition leader in Lok Sabha and the President of Bhartiya Jana Saangh said that it was necessary to follow some uniform policy forthe whole country. He further added that it was in congruous that the Nizam of Hyderabad, who had rebelled against India should function as such while the Kashmir Maharaja, who by his personal act hadlinked Kashmir with India constitutionally in 1947 should be punished.



Pt. Prem Nath Dogra, the President of the All J&K Praja Parishad, while pleading for the full and unqualified accession of the State to India explained the attitude of his party with respect to the question of elected head of the State. He stressed that:

- (i) they were in favour of the ruler functioning as Raj-pramukh of the State as in other similar states;
- (ii) they were opposed to the head of the State being appointed or removed at the behest of the Assembly;



- (iii) they were opposed to the head of the State being elected by the local legislature periodically for a number of years, because that would make him a plaything of local politics and a mere puppet of the unalterably fixed communal majority party in that legislature;
- (iv) the C.A. of Kashmir, being a creature of the Ruler and deriving from him whatever authority it possessed, had no legal and constitutional power or moral justification for deciding the fate of that very ruler;
- (v) that the instrument of Accession signed by Maharaja Hari Singh, as the legal Sovereign of the State, and by the Governor General of India was in the nature of solemn contract or treaty which could not and should not be repudiated or modified unilaterally by one party, much less at the behest of an Assembly which was never a party to it;
- (vi) the attitude of the National Conference leaders towards the ruler from whom they derived authority smacked of vindictive and communal bias and did not seem to be consistent with the best interests of India or of the State;



(vii) it was unwise and ~~x~~ inexpedient at that juncture to remove the one authority which had provided the sole unifying link for and had commanded the allegiance of the heterogeneous elements constituting the State of J&K for more than a century; and

(viii) it was unwise and ~~x~~ inexpedient in the interest of the State as well as of India to accord a discriminatory treatment to the ruler of the State, so long as Raj Pramukhs continued in other States like Hyderabad.

The basic principles Committee in its report submitted to the consembly on 3rd February 1954 recommend that the Head of the State would be a person designated as ~~x~~ the Sadar-i-Rayasat whose election and other terms of office could be regulated in accordance with the resolution of the Contituent Assembly dated 21st August, 1952. "That no person shall be eligible for election to the office of the Sadar-i-Rayasat unless he ~~is~~ subject to any of the disqualification specified in Rule -4 of the J&K Constituent Assembly Elective (Part-I) Rules 2008 for being choosen as a member of the Contituent Assembly". The ~~xxx~~ rule 4 of the J&K Constituent Assembly election (part-I) Rules 2008, however, provided that " A person shall be disqualified if he holds an office in J&K Government or Government of India or any other State.



The Government of India had appreciated the principle proposed by the basic principles Committee adopted by the Consenbly of Kashmir in regard to the abolition of the hereditary rulership of the State. In order to accommodate the principle of elected head of the state the following arrangement was mutually agreed upon between the Government of India and Kashmir leadership:-

- i) The Head of the state shall be the person recognized by the President of the Union on the recommendation of the Legislature of the State;
- ii) He shall hold office during the pleasure of the President;
- iii) He may, by writing under his hand addressed to the President, resign his office;
- iv) Subject to the foregoing provisions, the Head of the State shall hold office for a term of five years from the date he enters upon his office.

Provided that he shall, notwithstanding the expiration of his term, continue to hold the office until his successor enters upon his office.

The resolution regarding emoluments, allowance and privileges of the Sedar-I.- Rayasat was moved by Sheikh Mohammad Abdullah in Kashmir consenbly on 18th November, 1952. It was discussed debated, amended and amended motion was adopted unanimously



The Kashmir consembly then moved the motion to amend the Jammu and Kashmir Consitution. Act of 1996 accordingly. On 10th Nov. 1952 which was adopted unanimously on 12th November 1952. Moreover a resolution asking the legislative Assembly to proceed to elect the head of the State was also moved in the House and adopted unanimously on 12th Nov. 1952.

However, Sheikh Mohammad Abdullah and Pt. Jawaharlal Nehru met at Delhi on August 12, 1952 and had discussed the question who would be the first elected head of the State. On August 13, Pt. Nehru wrote a letter to Prince Karan Singh the Regent of the State indicating him that Sheikh Mohammad Abdullah and other Kashmiri leaders wished him to be the first elected head of the state. Prince Karan Singh on the other hand, had made clarification regarding the position, status, functions and powers of the elected head of the state. It was also learned that some influential Muslims public leaders of the state were also urging the Yuvaraja Karan Singh to agree to be elected head of the State. It was also said that Maharaja Hari Singh did not like Karan Singh to accept the offer- He had said to threatened to disinherit the Yuvaraj if he would accept the new office which would give rise to complications regarding the continuance of the till of the Maharaja and his Rs. 9 lakhs privy purse. Karan Singh while declining to disclose the Maharaja's wishes in the matter pointed out that what appeared in the paper was all fabrication.



While returning from Bombay, where he had gone to see his father, Karan Singh discussed with Kashmir premier certain points regarding the appointment of head of the state. There seemed to be some differences, between Kashmir premier and Karan Singh about the status, functions, responsibilities of the head of the state. Although at most pressure was being exerted on him to accept the highest position in the state from highly influential quarters in New Delhi and Srinagar, yet the Dogra leaders in Jammu were against his becoming a "tool" in the hands of the Kashmir National Conference.

Dr. Radhakrishnan the Vice President of India, however visited Srinagar on August 18, 1952 to mediate between Karan Singh and Sheikh Abdullah and held a number of meetings with each of them and both of whom had explained their respected view point to him. The Yuvaraj Karan Singh had insisted that he would not be prepared to accept the offer unless his state, functions and responsibilities were clearly defined in the constitution, then being drafted by the State assembly. Apparently, the mediation of Dr. Radhakrishnan had failed to resolve the doubts of the Yuvaraj Karan Singh.

Meanwhile the Kashmir assembly resolved on August 20, 1952 that until a Constitution of Kashmir was framed the elected head of the State (Sadar-I-Riyasat) would exercise such powers and functions as were hitherto exercised by the Maharaja under the state constitution Act 1996, as amended in 1951. The resolution authorised the premier to send a copy of it to the Union President for favour of appropriate action to enable its being giving



effect to.

A schedule attached to the resolution had, however, prohibited a member of state legislature from holding the office of Sadar-I-Rayasat.

The Yuvraj Karan Singh, had prolonged discussion with the then state Minister Dr. K.N. Katju and with Mr. N. Gopalaswami Ayyanger at Delhi (National Herald)

Pt. Jawaharlal Nehru and Mahlana Azad visited Srinagar on August 22, 1952. Pt. Nehru had discussed with Sheikh Abdullah the situation arising from the Yuvraj Karan Singh's hesitation to accept the offer of elected headship of the State. Maulana Azad had then sent an important communication to Karan Singh then in Delhi. It was hoped that Karan Singh would yield persvations ultimately and would accept the offer of being the first elected head of the State.

Meanwhile the Yuvraj Karan Singh had sent invitations to some prominent citizens of Jammu to come to Srinagar for consultation and advice before accepting the headship of the State. whereas command Dhanwantri, the Communist part leader in Jammu and Kashmir and Shri Girdhari Lal Anand, president Jammu chamber of commerce had declined the invitation, some to leaders of the Praja Parishad openly threatened the Yuvrah with boycott in case he would accept the offer of the headship of the state.

Mr. Ganaga Ram, the former Home Minister of the State alsched talks with Karan Singh and pointed



him that Kashmir consembly did not represent Jammu people. He told him that till Maharaja Harils case and his representation to India government were decided it would be premature to give any opinion regarding the regent accepting elected headship.

The Yuvraj Karan Singh at last yielded the pressure from Delhi and Kashmir and accepted the offer of headship of the State.

The election of the Yuvraj Karan Singh as the first head of the state was practically certain as his was the only nomination paper for that office received by Mr. G.M. Sadiq the president of the consembly.

Thus amidst unprecented cheers, the 21 years old Yuvraj Karan Singh was unanimously elected the first Sadar-i-Rayasat of Jammu and Kashmir State on Nov. 14. Addressing the State assembly after the announcement of the election, Sheikh Mohammad Abdullah, the Kashmir Prime Minister, said that that even signified the supreme fulfilment of the aspirations of Kashmir people. The fight for freedom waged by the people had been brought to a successful culmination, as complete powers and sovereignty had been transferred to their chosen representatives, who in the exercise of that power were electing, for the first time, the head of the State. The Kashmir Assembly had thus added a bright chapter to the history of the State. The correspondence of times of Indian National Daily, pointed out that the institution of monarchy would breathe its last in the J&K State on Nov. 17, 1952 when a new head, of the state known as Sadar-i-Riyasat



would be sworn in by the then Chief Justice Wazir Janki Nath. That day had also been declared as a public holiday in the state.

Pt. Jawaharlal Nehru in a statement in House of people (Lok sabha) on 18th Nov. 1952 informed the house that the election of Sadar-I-Riyasat of Jammu and Kashmir did not detract in any way from the constitutional powers and status of the President of India.



THE PROTECTION OF THE RIGHTS OF WOMEN IN J&K STATE -\*  
A HISTORICO-SOCIO-POLITICO AND CONSTITUTIONAL ANALYSIS

Dr. Vidya Bhushan\*\*

" Kashmir<sup>is</sup> known as the paradise on earth not only for its sun-lit, snow clad peaks, its shadow-kissed valleys, its lovely flowers, its green meadows, shady chinar trees, crystal-clear lakes, its rich luscious fruits and sweet-scented saffrons, its magnificent pleasure-parks, its floating gardens and glittering glaciers, and beautiful pine-mantled side valleys, but also for its most beautiful women and cherubic, rosy-cheeked children who seem to have walked out of some of the old European paintings of a flock of angels hovering around the Christ Child".

Through their long history, Kashmiri women witnessed varying fortunes. "At times women had risen to pinnacles of glory, distinguished themselves as rulers in their own right, as regents of minor princes, as powerful queens-consorts, as diplomats in peace and war, as Commanders of the armies, as thrifty land-ladies, as builders and reformers, as protectors of the religious lore, as singing and dancing beauties and also earned names in keeping homes".

Broadly speaking from early times down to the thirteen century A.D. Kashmiri women enjoyed remarkable freedom, wielded ample power and exercised a responsibility, which gave them a high status in society. The happiest period for women was when the country came under the sway of Buddhism. However, with the establishment and consolidation of Muslim rule in the Valley, women were gradually and increasingly deprived of these rights and privileges. Their sole meaning and purpose in life

---

\* A paper being presented in National Seminar on Social Policy, Law and Protection of Weaker Section of the Society" organised by the Faculty of Law, University of Jammu to be held at Jammu from 11th to 13th February, 1984.

\*\*M.A., L.L.B., B.Ed., Ph.D. Reader in P.G. Department of Political Science, University of Jammu, Jammu-180001.



became to keep the houses, to gratify the desires of their husbands and to procreate. But in the wake of Afghan onslaught followed religious persecution, rapine and devastating. Purdah was more rigorously enforced, women were physically and spiritually shattered, their presence in every sphere of social activity was totally eclipsed, and they meekly submitted to the expropriation and exploitation. The sikhs who succeeded the Afghans were no less tyrannical and cruel. Dogras - the new masters, who were in the initial years busy in consolidation of their newly acquired kingdom, and annexation of the frontier areas lying in the north, evinced some interests in the moral and social uplift of the women.

Gulab Singh is known to have issued ordinance against Sati system as early as 1825 "when he was a Raja of Jammu Jagir. Later on he sent his representatives to attend the Social Reforms Conference held at Lahore in 1852 and got incorporated his ILLANS against infanticide and Sati. Ranbir Singh also issued strict orders for prohibiting Sati system and encouraged female education and the figure of girls attending schools was enhanced.

at  
But on the whole, the close of last century Kashmiri women had sunk to a low level of destitution and ~~ing~~ ignorance. Because of exploitation and a low status in society, they lost refinement of their mind and self-confidence, spirit of revolt and sense of righteous indignation. In short, the 19th century witnessed the most complete and degrading subjugation of women in the history of mankind.

The religious dogmas were also responsible for the pitiable conditions of women in our state. They were considered as secondary citizens with no independence of any sort. The religious laws governing the system of marriage, divorce, inheritance, polygamy, poliandry, dowry system, widow remarriage



became to keep the houses, to gratify the desires of their husbands and to procreate. But in the wake of Afghan onslaught followed religious persecution, rapine and devastating. Purdah was more rigorously enforced, women were physically and spiritually shattered, their presence in every sphere of social activity was totally eclipsed, and they meekly submitted to the expropriation and exploitation. The sikhs who succeeded the Afghans were no less tyrannical and cruel. Dogras - the new masters, who were in the initial years busy in consolidation of their newly acquired kingdom, and annexation of the frontier areas lying in the north, evinced some interests in the moral and social uplift of the women.

Gulab Singh is known to have issued ordinance against Sati system as early as 1825 "when he was a Raja of Jammu Jagir. Later on he sent his representatives to attend the Social Reforms Conference held at Lahore in 1852 and got incorporated his ILLANS against infanticide and Sati. Ranbir Singh also issued strict orders for prohibiting Sati system and encouraged female education and the figure of girls attending schools was enhanced.

at  
But on the whole, the close of last century Kashmiri women had sunk to a low level of destitution and ~~ing~~ ignorance. Because of exploitation and a low status in society, they lost refinement of their mind and self-confidence, spirit of revolt and sense of righteous indignation. In short, the 19th century witnessed the most complete and degrading subjugation of women in the history of mankind.

The religious dogmas were also responsible for the pitiable conditions of women in our state. They were considered as secondary citizens with no independence of any sort. The religious laws governing the system of marriage, divorce, inheritance, polygamy, poliandry, dowry system, widow remarriage



and debarring widows from performing certain social functions were yet another discrimination against women.

The feudal society, like the semi-feudal and semi-capitalistic system of to-day, treated women as personal property of men. The male oriented and male dominated value system, Thus, swayed the society throughout the history and subordination of women appeared in every walk of life. The social controls on women restraining their public movement and appearance also, to a great extent accounted for their losing self-confidence and initiative. The insecurity, helplessness and physical weakness made women more subservient and socially dependent. The dowry, the bride price, which were the most cruel traditional practices, continued with newer dimensions and the increasing incidental demands of in-laws after marriage led to the further deterioration of women's conditions.

Violence or wife beating, found in several families irrespective of their social background was probably one of the most accepted crimes committed against women.

But the waves of the western ideas ~~spread~~ opened a new era of progress and modernization in the state, and in the ferocious opposition of the government and superstitious elders of Hindu and Muslim communities, the foreign Christian missionaries pioneered a movement for the betterment of Kashmiri women. The last Dogra Maharaja also tried his best to raise the percentage of literacy among the women and to ameliorate their socio-economic conditions. During his reign the number of educational institutions for girls increased, provisions were made to admit girls below 10 yrs in boys schools in localities where no separate girls schools existed; girl students were also admitted in the colleges of the state and 7 post-matriculation scholarships of Rs.40/-each were provided to girls desirous of pursuing college education in British India.



The deterioration of socio-economic conditions and greater strain and stresses, which led to the economic insecurity of man in inter-war period and after, further increased subjection of women and degradation of their living and working conditions. Women were, thus, alienated from their families, from their native places, their jobs, from land and from human dignity.

Moreover, the post-war emergence of new productive forces, the transformation of their ownership the changing productive relationship and impending <sup>super</sup>structures created distinct classes, new institutions and developed new laws which further relegated women's position to an unparalleled low relative to others in the social hierarchy and economic status. Hence larger number of women became increasingly poor before independence.

In spite of all these limitations, the Kashmiri women ~~pl~~ played an important role in the Freedom Struggle of Kashmir. They suffered in their thousands, and passed into oblivion without any recognition or fame. Still, from all walks of life they came forward with redoubled enthusiasm to participate in the last phase of popular resistance (i.e., Quit Kashmir Movement of 1948), against the autocratic rule under the banners of National Conference headed by a dynamic leader Sher-i-Kashmir, Sheikh Mohd. Abdulla.

The leadership of National Conference was very much conscious of the deplorable conditions of women folk in the state- as well as of the fact that the status of a woman, at whose breast humanity is nourished and in whose lap civilizations are credled, is a measuring rod of the civilization. They were also aware of the fact that the inherent strength of women, if suitably channelised, could be directed towards National Development. That was why the party in its blueprint for the socio-economic transformation of the State in Naya Kashmir



Programme of early 1944, among other things, promised to provide safe-guards for the protection of women's socio-politico-economic interests. Sec. 12 of Naya Kashmir Programme runs as follow:  
 "women citizens shall be accorded equal rights with men in all fields of national life, economic, cultural, political and in the state services.

These rights shall be realised by affording women the right to work in every employment upon equal terms and for equal wages with men. Women shall be ensured rest, social insurance and education equally with man. ~~xxxxx~~ The law shall give special protection to the interests of mother and child. The provisions of pregnancy leave with pay and the establishment of wide network of maternity homes, nurseries and kindergartens shall further secure ~~the~~ these rights.

However, it is a known fact that Kashmir was the only one of the hundreds of the former princely states, which was given the right to have a separate Constitution framed by its own Constituent Assembly. But it is regrettable to point out that from the females which constituted about half of the population of the state, were drawn only two women, i.e., 2.56 % of the total membership of the Consenbly, and their representation in the committees of the Consenbly was 4.35 % of the total membership of the Committees. The Consenbly of Kashmir which intended to shape the future destiny of the state and to implement the cherished objectives of Naya Kashmir Programme, also discussed and debated the question of protecting the interests and rights of women folk, and made certain proposals. The section 10 of Kashmir's Constitution of 1956, therefore, provides "the Permanent residents of the state shall have all the rights guaranteed to them under the Constitution of India. "The Permanent residents<sup>1</sup> obviously includes the women.

Besides the fundamental rights, the Kashmir Constitution also provides a list of DIRECTIVE PRINCIPLES OF STATE POLICY for



the amelioration of the socio-economic status of women. Though these directives are not enforceable in the court of law, nevertheless these are declared to be the fundamental in the governance of the state and like the affirmative instructions to the Government to do certain things, are the instructions which give to the Constitution a living spirit. In addition to others, one of the directives, which comprises a fairly comprehensive moral code for the rights of women, provides, "the state is directed to secure to all women and the right to equal pay for equal work, maternity benefits and medical care, reasonable maintenance to abandoned married women; full equality in all social, educational, political and legal matters, the special protection against discourtesy, defamation, hooliganism and other forms of misconduct, to combat ignorance, superstition, fanaticism, communalism, racialism, cultural backwardness and to foster brotherhood and equality among all communities which includes women folk. The state, within the limits of its economic capacity and development, is directed to make effective provisions for securing for women, who are permanent residents of the state, right to work, i.e., the right to receive guaranteed work with payment for labour in accordance with its quality and quantity subject to a basic minimum and maximum of wages established by the law, that the health and strength of working women are not abused and they were not forced by economic necessity to enter avocations unsuited to their sex, age or strength, to secure to every permanent resident including women right to free education up to the University standard.

These directives are not taken by the government as pious homilies but have been and are being implemented.

It would not, however, be an easy task to survey the progress made by the government of Kashmir in the implementation of the directives relating to ameliorating the socio-economic



conditions of Kashmiri women. Nevertheless, a brief reference to some of the outstanding achievements made in this direction particularly during two and half decades since the promulgation of the present Constitution of Kashmir is as under:

For securing the right of women (Sec. 22) the State Govt. has taken different steps. Steps are also underway for enforcement of an Act which will ensure equal remuneration to women and men for the same work. There are a certain fields in which women are exclusively absorbed. e.g. women education wings and nursing profession. They are also given equal opportunities for employment in other ~~other~~ sectors. A good number of women are working in various government offices. In case of women employees the period of maternity leave admissible has been extended up to 90 days.

Each district hospital is utilizing 50 % of beds for the female including children. Each family welfare centre has one lady doctor, one lady health visitor, one auxiliary mother, to render specialized service to the women folk. The number of family planning centres and sub-centres has gone up to 182, number of nurses to 532 and midwives to 1,105. Women are provided generalised health service under different schemes such as maternity and child Health and Family Welfare and Nutrition. A sum of Rs.15.8 lakhs has been earmarked for providing special Nutrition to 145 expectant mothers in Udhampur district only. Under REHBAR-I-SEHAT PROGRAMME and Multipurpose Health Worker Scheme, health care services, are being provided to the women in the rural areas.

Over and above these facilities, one women's hospital has been set up at Srinagar where specialised medical services are available for women.

As ~~and~~ education is the basic imperative for the women to be strong and healthy both in brain and brawn some measures



have also been undertaken to increase literacy among women. Kashmir state is the only state in Indian Union to have provided for free education to all, right up to universities level. There are 2586 Primary schools, 250 middle and 16 high and higher secondary schools being manned by over 11,000 female teachers. About 2.50 lakhs girls are receiving education. The separate colleges for women have also been opened to provide higher education to them. Because of recent economic constraints, the poorer families find no alternatives, but to send their girls to work to help their elders to earn livelihood. To educate them, 1735 partime educational centres have been opened in the state where more than 33,000 children including girls are being given primary education. The poor girl students are being provided free text books, stationary, uniforms, scholarships and other incentives. Moreover, number of centres of non-formal education for other girls, who could not go to formal schools have also been similarly increased. The number of adult education projects and adult literacy centres for women have also gone up. As a result, the literacy percentage of female has gone up to 15.82 in 1983. Women now enjoy right to vote. The state constitution provides for women to be nominated as members of the legislature, if they are not adequately represented. Women have also been given representation in the various district and block level development boards of the state to ensure their active participation in the development efforts.

For social upliftment of the women, the government has set up 120 welfare centres where women are imparted training in various crafts. There are 9 Nari Niketan and 'Fallah-i-Musturat centres. In each centre 25 women are accommodated for training purposes and paid stipends. Centres for training facilities in cutting, tailoring, knitting embroidery have also been established.



Sewing machines are given to widows and destitutes. The rural women camps are being organised also. Under the District Industries Centres programme., several handicraft centres are being established for the economic uplift of the women especially in rural areas. An institution namely, 'Markaz-i-Behbudi-Khawateen has been started at Miskeen Bagh, Srinagar where 600 girls and women from poorer classes are accommodated for imparting training in six crafts which ultimately help in supplementing their income.

Inspite of the paucity of financial resources, the state government has done, and is doing much for the betterment of women. However, whatever has been done so far to give them an equal status with men, has had very little effect on their life style. So far as unemployment, illiteracy, low ~~health~~ health standards are concerned, they are still more adversely circumstanced as compared to men. They still, thus, continue to face enormous problems in actual life.

The benefits of the above mentioned social legislations have not reached the majority of women. Most of them are still not aware of their rights. Even if some of them are aware of the rights, the legal redress is not availed of, because it involves a time consuming and expensive process.

In order to improve their economic status, economic role-based organisations of women such as cooperative, trade union and self-employment enter-preneur groups should be organised particularly in rural areas, more and more training facilities should be provided to them for achieving higher productivity in agriculture, side jobs and family employment. There should be reservation for women in all training and professional colleges. More attention to be paid to population,



education and family planning as these are crucial to improve the status of women. Elementary education should primarily be entrusted to women at policy making, advisory, administrative and operative levels. The law and procedure of the state should be ammended and modified to eradicate all the evil practices to change the thinking of menfolk about the fair sex and to simplify the procedure for redressing their grixiences. Procedure relating to their arrest and ramand in police station should not be ornamental in nature but productive in practice; laws relating to marriage, divorce inheritance, polygamy, polyandry, dowry, widow-remarriage, rape, assault, starving and wife-beating should be modified keeping inview the best interests of x women-folk. The cases like rape, eve-teasing, kidnapping, abetment, bride burning, dowry death should preferably be investigated and adjudicated in camera by women. Severe punishments should be provided for heinous crimes like rape, kidnapping and abduction of women, their wrongful confinement and their being forced to indulge in immoral practices. There should be speedy disposal of such cases. The government should undertake steps for bringing about an entire change in the attitude of society towards fair sex and equip them to stand on their own feet. Hoodlums should not be provided political patronage.

Social pressure can also prove to be the most potent instrument for containing and preventing such crimes. The voluntary social organisations could be helpful in building up a proper social stance against such crimes, and extinguishing social prejudices against deserted wives, widows and widow remarriage.

In brief, a glance at the history of the position of women in Jammu and Kashmir state shows that vast strides



have been taken to ameliorate their conditions; to bring them as far as, possible at par with men. However, the progress so far is only a first step which should lead to a heightened consciousness about the disabilities which one-half of human populations suffers in developing societies like ours. This can partly be done by passing suitable laws. But main emphasis should be on bringing about a change in social values and norms through education and community action.



